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Constitution making in
Indiana

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INDIANA HISTORICAL COLLECTIONS

Volume XVII

CONSTITUTION MAKING
IN INDIANA

INDIANA HISTORICAL COLLECTIONS

- I-II. CONSTITUTION MAKING IN INDIANA (Volumes I and II), by Charles Kettleborough. (The Introduction, covering the period from 1780 to 1916, was reprinted separately.)
- III. INDIANA AS SEEN BY EARLY TRAVELERS, by Harlow Lindley
- IV. THE PLAY PARTY IN INDIANA, by Leah Jackson Wolford
- V. THE INDIANA CENTENNIAL—1916
- VI. GOLD STAR HONOR ROLL
- VII. MESSAGES AND LETTERS OF WILLIAM HENRY HARRISON (Volume I, GOVERNORS MESSAGES AND LETTERS), edited by Logan Esarey
- VIII. WAR PURSE OF INDIANA, by Walter Greenough
- IX. MESSAGES AND LETTERS OF WILLIAM HENRY HARRISON (Volume II, GOVERNORS MESSAGES AND LETTERS), edited by Logan Esarey
- X. A SERGEANT'S DIARY, by Elmer F. Straub (Out of print)
- XI. GEORGE W. JULIAN, by Grace Julian Clarke (Out of print)
- XII. MESSAGES AND LETTERS OF JENNINGS, BOON AND HENDRICKS (Volume III, GOVERNORS MESSAGES AND LETTERS), edited by Logan Esarey
- XIII. SWISS SETTLEMENT OF SWITZERLAND COUNTY, INDIANA, by Perret Dufour
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- XV. FORT WAYNE, GATEWAY OF THE WEST, 1802-1813, edited by Bert J. Griswold
- XVI. A BIBLIOGRAPHY OF THE LAWS OF INDIANA, 1788-1927, by John G. Rauch and Nellie C. Armstrong

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1977 PREFACE

When the Indiana Historical Commission was created by an act of the Indiana General Assembly signed by Governor Samuel M. Ralston on March 8, 1915, one of its duties was "to edit and publish in such form as it may determine, documentary and other materials on the history of the State of Indiana." The *Indiana Historical Collections* was initiated the following year with the publication of Volumes I and II of *Constitution Making in Indiana* by Charles Kettleborough; these volumes provided source materials and critical commentary covering the period 1780-1916. In 1930 Kettleborough prepared and the Historical Bureau published a third volume in the series, covering the period 1916-1930, as Volume XVII in the *Indiana Historical Collections*.

Volumes I and II were reprinted by the Historical Bureau in 1971 and 1975 respectively after carrying the designation OP for many years. The Bureau is pleased to complete that effort and to make available finally the third volume in that series.

In addition the Bureau has in progress an update in multiple volumes of this series to the present. These additional volumes will appear as part of the *Indiana Historical Collections* over the next several years.

The entire series should serve as a rich resource for future scholars and legislators. This reprint of Volume III and the need to continue the series of *Constitution Making in Indiana* is a tribute to those original historians who conceived and to Kettleborough who executed the initial project.

Pamela J. Bennett, Director
Indiana Historical Bureau
June 1977

CONSTITUTION MAKING IN INDIANA

A Source Book of Constitutional Documents
with Historical Introduction and
Critical Notes

By
CHARLES KETTLEBOROUGH, Ph. D.
Director, Legislative Bureau

Volume III
1916-1930

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PREFACE

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Volumes I and II of *Constitution Making in Indiana*, compiled and edited by Dr. Charles Kettleborough, legislative draftsman of the Indiana Bureau of Legislative Reference, were published in 1916 in connection with the centennial of the state's admission into the Union, as the first two volumes of *Indiana Historical Collections*.

The work begins with a comprehensive history of constitution making in Indiana to 1916. The remainder of Volume I is divided into four groups of documents: Part I, covering the period from 1780, when Congress recommended the cession of the western lands, to 1816; Part II, covering the organization of a constitutional government; Part III, outlining attempts to amend the Constitution of 1816; and Part IV, dealing with the Constitutional Convention of 1850. Volume II consists of documents relating to the amendment of the Constitution of 1851, closing with the party platforms of 1916, and an appendix giving election returns on amendatory or revisional questions voted on from 1821 to 1914. It contains also lists of delegates to the Constitutional Conventions of 1816 and 1850. The historical introduction was reprinted from Volume I in 1917 as a separate volume of 265 pages. Each volume is indexed.

The present volume, Volume III of *Constitution Making in Indiana*, and Volume XVII of *Indiana Historical Collections*, continues to April, 1930 the subject of amendments proposed to the Constitution of 1851. Two party platforms of 1916, omitted from Volume II, have been included. As in the preceding volumes, the field has been limited to documents bearing some sanction of authority, including in this instance, activities of the General Assembly, governors' messages, party platforms,

official ballots, court decisions, and opinions of attorney-generals. They have been taken from the printed House and Senate *Journals*, the *Laws*, and court *Reports*, supplemented when necessary by original documents, printed bills, or manuscript records from the office of the secretary of state. In general the form used in the two previous volumes has been followed, and the numbering of documents is continuous from Volume I through Volume III. The appendix of the present volume contains a table showing what amendments have been proposed to each Article and section of the Constitution of 1851 and what disposition has been made of these proposals. Another table summarizes the outcome of attempts to call constitutional conventions. The vote on constitutional amendments in the general election of 1906, omitted from Volume II, is inserted along with the vote on amendments in the elections of 1921 and 1926.

In view of the fact that the question of constitutional revision is before the General Assembly and the electorate of the state, the presentation of this additional material has seemed to the Historical Bureau especially timely. It considers itself fortunate in again securing the services of Dr. Kettleborough, since 1918 director of the Legislative Bureau, who has undertaken the preparation of this volume in addition to his other duties. He has been in a position to gain first-hand knowledge of all the processes of constitution making in recent years: by experience and ability he is particularly well qualified to record its history.

Miss Jessie Boswell and Miss Elvira Kerz, of the Legislative Bureau, and Miss Nellie Armstrong and Mrs. Ruth Spilver, of the Historical Bureau and the State Library, have assisted in the preparation of the manuscript and in seeing it through the press.

CHRISTOPHER B. COLEMAN,
Director of the Historical Bureau

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INTRODUCTION

The attempts which were made to secure amendments to the state Constitution from the middle of 1916 to the beginning of 1930 actually began in 1911 with the formulation of the so-called Marshall Constitution. The Marshall Constitution was proposed by the General Assembly of 1911; it was a complete new constitution, based on the Constitution of 1851, and incorporating amendments to sections of that instrument. It was to be submitted to the voters at the general election of 1912, but prior to that time, it was declared invalid in *Ellingham v. Dye*, 178 *Indiana*, 336.

During the session of the General Assembly of 1913, an act was passed submitting the question of calling a constitutional convention to a vote of the electors at the general election of 1914, and twenty-two of the amendments which had been incorporated in the Marshall Constitution were adopted as separate amendments and submitted to the General Assembly of 1915. At the general election of 1914, the proposal to call a constitutional convention was decisively defeated, and the General Assembly of 1915 rejected all of the amendments which had been proposed by the General Assembly of 1913.

The General Assembly of 1917 called a constitutional convention by virtue of a law which was enacted during that session, without first submitting the question to a vote of the people. At the same session two amendments to the Constitution were proposed and submitted to the General Assembly of 1919. In 1917, in *Bennett v. Jackson*, 186 *Indiana*, 533, the act of 1917 calling a constitutional convention was held invalid.

Confronted by the situation created by the two Supreme Court decisions, the General Assembly of 1919 withdrew the two amendments which had been proposed

in 1917, adopted sixteen amendments in lieu thereof, and referred them to the General Assembly of 1921. The General Assembly of 1921 readopted thirteen of the sixteen pending amendments and submitted them to the voters at a special election held on September 6, 1921. At this election but one of the amendments was ratified.

The General Assemblies of 1923 and 1925 adopted four of the amendments which had been defeated by the voters in 1921 and resubmitted them to the voters at the general election of 1926, but none of these amendments was ratified.

The General Assemblies of 1927 and 1929 adopted two amendments which are at the time of writing awaiting the action of the voters, and the General Assembly of 1929 has submitted to the voters the question of calling a constitutional convention, to be voted on at the general election of 1930.

The several constitutional amendments which were proposed during the period from 1917 to 1929, inclusive, are described below under appropriate headings.

SUFFRAGE

During this period the suffrage qualifications were both extended and restricted. By virtue of an amendment of the Constitution proposed in 1919, readopted in 1921, ratified by the voters at a special election held on September 6, 1921, and declared in force by a proclamation of the governor issued on September 13, 1921, the right of suffrage was conferred on women, but the right to vote was at the same time restricted to native-born persons and fully naturalized aliens. The woman-suffrage movement had been gaining momentum for a decade. The federal woman-suffrage amendment was proposed by Congress and submitted to the states for ratification on June 5, 1919; this amendment was ratified by the General Assembly of Indiana on January 16, 1920 at a special session of the General Assembly called by the governor expressly for that purpose, and it was declared in force

on August 26, 1920. Meantime, the movement to confer suffrage on women had been urged and indorsed by the Socialist Party in 1916 and 1918; by the Prohibition Party in 1918; by the Democratic Party in 1918 and 1919; and by Governors Goodrich and McCray in 1917, 1919, and 1921. In 1917 three amendments extending to women the right to vote were introduced in the General Assembly, and one of them was adopted and referred to the General Assembly of 1919. For the purpose of expediting the adoption of the suffrage and other amendments, the amendment proposed in 1917 was withdrawn and a similar amendment proposed in 1919, and it was this 1919 amendment which was ultimately adopted, ratified, and declared in force. Subsequently, its validity was sustained by the Supreme Court in *Simmons v. Byrd*, 192 *Indiana*, 274.

Prior to 1921 any alien who had declared his intention to become a citizen was qualified to vote. By that date, however, the demand that suffrage be restricted to the native-born and to those persons who had been fully naturalized was unmistakable, and had been given added emphasis by the World War. A constitutional amendment requiring the foreign-born to be fully naturalized to vote was indorsed by the Prohibition Party in 1918, by the Democratic Party in 1919, and by Governors Goodrich and McCray in 1919 and 1921, and a constitutional provision requiring aliens to be fully naturalized to vote was incorporated with the woman-suffrage amendment and ratified in 1921.

Several additional changes in the suffrage qualifications prescribed in the Constitution were proposed but none were adopted. An attempt was made to provide for the classification of counties, townships, cities, and towns for the registration of voters. An amendment of this kind was desired to enable the General Assembly to require voters in the more populous parts of the state to register and to exempt voters from registration in the rural districts and in the smaller municipalities. This

amendment was recommended by Governor Goodrich, was approved by the Republican party convention, and was adopted and submitted to the voters in 1921, but was defeated. In 1919 an amendment was proposed requiring the registration of voters in cities having a population of more than 25,000, and in 1929 a somewhat similar amendment was proposed requiring the registration of voters in counties having a population exceeding 100,000 and in cities having a population exceeding 15,000, but these two amendments also failed.

The remaining proposals for suffrage changes included a requirement that all foreign-born persons live in the United States five years before being eligible to vote; that all voters pay a poll tax; that a residence of one year be established in the state; and that suffrage be restricted to persons able to read the English language.

FINANCE AND TAXATION

Repeated attempts have been made to amend the constitutional provisions relating to the taxation of property. In 1917 Governor Goodrich recommended that the Constitution be so amended as to provide for the classification of property for taxation, the imposition of a lower rate on intangibles, and a limitation on the tax rate. In 1918 the Republican party convention indorsed a tax-rate limitation. In 1919 the General Assembly instituted a tax-reform program by adopting two constitutional amendments providing for an income tax and conferring upon the General Assembly plenary power to levy and collect taxes. The income-tax amendment was proposed in 1919, and readopted in 1921, but was defeated when submitted to the voters on September 6, 1921. It was adopted a second time in 1923, readopted in 1925, submitted to the voters at the general election of 1926, and again defeated; it was adopted a third time in 1927, readopted in 1929, and is at the time of writing awaiting the action of the voters. The amendment conferring upon the General Assembly plenary power to

levy and collect taxes was adopted, as was the income-tax amendment, in 1919, readopted in 1921, and defeated at the election of September 6, 1921, and an amendment providing for the classification of property was defeated in the General Assembly in 1919. The only other proposed amendments directly relating to taxation were those providing for the exemption from taxation of personal property not exceeding \$600 in value; exempting household goods not exceeding \$200 in value; exempting the property of indigent widows and orphans, not exceeding \$500 in value; and exempting the property of soldiers and sailors, not exceeding \$1,000 in value.

For the purpose of securing to the governor a more adequate control of state finances, attempts were made to establish an executive state budget and to authorize the governor to veto items in appropriation bills. The amendment providing for the establishment of the executive state budget was proposed in 1919 but was defeated in the General Assembly of 1921, and the amendment authorizing the governor to veto items in appropriation bills was proposed in 1919, readopted in 1921, and defeated at the election of September 6, 1921.

JUDICIARY

Several unsuccessful attempts were made to increase the number of judges of the Supreme Court and to provide for longer terms. The maximum number of judges proposed varied from twelve to fifteen and the maximum term from ten to twelve years. The proposed amendments were likewise designed to authorize the Supreme Court to sit in divisions or *en banc* and to render *ex parte* opinions on the constitutionality of bills pending in the General Assembly. An unsuccessful attempt was also made to abolish justice-of-the-peace courts.

TERMS OF STATE AND COUNTY OFFICERS

A determined effort was made to fix at four years the terms of such public officials as are now elected for two-

year terms. Amendments fixing the terms of county and state officers and prosecuting attorneys at four years were submitted to the voters but were defeated at the election of September 6, 1921, and the proposal to fix the term of the state superintendent of public instruction at four years was defeated in the General Assembly.

APPOINTMENT OF OFFICERS

On recommendation of Governor Goodrich, attempts were made to shorten the ballot by providing for the appointment of the state superintendent of public instruction, the clerk of the Supreme Court, and the attorney-general. The amendments providing for the appointment of the clerk of the Supreme Court and the attorney-general were defeated in the General Assembly, and the amendment providing for the appointment of the state superintendent of public instruction was defeated upon its submission to the voters at the election of September 6, 1921.

MISCELLANEOUS

In 1919 an amendment was proposed which was designed to prohibit increases in the salaries of, and extensions of the terms of public officials during their terms in office; this amendment was readopted in 1921 and was submitted to and defeated by the voters in 1921; it was proposed a second time in 1923, readopted in 1925, and defeated in 1926.

The General Assemblies of 1919 and 1921 proposed an amendment authorizing negroes to serve in the state militia, but the amendment was defeated by the voters in 1921.

In 1919 and again in 1923 an amendment was proposed which based the apportionment of state senators and representatives on the vote cast for secretary of state instead of on the sexennial enumeration of male voters. The first of these amendments was defeated by the voters in 1921 and the second in 1926.

The General Assemblies of 1919 and 1927 each proposed an amendment authorizing the General Assembly to prescribe qualifications necessary for the practice of law. The first of these two amendments was defeated in 1921 and the second is at the time of writing awaiting action by the voters.

A considerable number of amendments in addition to those described above were proposed either by party conventions or by members of the General Assembly, but none of them succeeded in passing two general assemblies. The amendments so proposed provided for a change in the constitutional right of trial by jury; granted the state the right of a change of venue in criminal cases; provided for the impeachment and removal of prosecuting attorneys; authorized the adoption of the initiative, referendum, and recall; provided that sessions of the General Assembly be held in the second and fourth years of a governor's term instead of in the first and third; provided for bisected sessions of the General Assembly; granted home rule to cities; required a three-fifths vote to pass bills over the governor's veto; authorized the General Assembly to create such county officers as might be necessary; prohibited the manufacture and sale of intoxicating liquor; provided for the adoption of amendments to the Constitution by one General Assembly instead of by two; required a two-thirds vote of the General Assembly to adopt amendments to the Constitution; and provided that an amendment which has received a majority of the vote cast on the question shall be considered ratified.

VOLUME III

540. PROHIBITION STATE PLATFORM, June 7, 1916

The Prohibition Party assembled in convention in the city of Indianapolis on June 7, 1916. Among the planks incorporated in the platform which was adopted by the party was one which pledged the support of the party to the calling of a constitutional convention.

Year Book of the State of Indiana, 1917, p. 698:

We promise upon election to power to give the people the privilege of forming a new constitution.

541. SOCIALIST STATE PLATFORM, 1916

The Socialist platform adopted by the convention of the Socialist Party in 1916 contained a plank indorsing a constitutional convention, and setting forth other recommendations necessitating amendments to the Constitution.

Year Book of the State of Indiana, 1917, p. 702:

As measures calculated to provide immediate relief, we pledge our elected candidate to support the following program:

.....
4. Equal suffrage without regard to sex, race or property qualifications.

5. Direct legislation by means of the initiative, referendum and recall.

.....
9. The abolition of poll tax and tax exemption of personal property which does not exceed \$600 in value.

.....
13. An early constitutional convention to revise our antiquated state constitution, and providing for proportional representation of parties in the Legislature.

THE SEVENTIETH GENERAL ASSEMBLY, 1917

The House of Representatives of the General Assembly which convened on January 4 and adjourned on March 5, 1917, consisted of 64 Republicans and 36 Democrats, and the Senate consisted of 25 Democrats, 24 Republicans, and 1 Progressive. James P. Goodrich (Rep.) succeeded Samuel M. Ralston (Dem.) as governor on January 8. There were no constitutional amendments pending before either the General Assembly or the voters. The question of calling a constitutional convention had been defeated at the general election of 1914. Accordingly, at the time when the political leadership in the state shifted from the Democrats to the Republicans, the General Assembly was free to dispose of constitutional problems in any manner it might determine, and, as a result, the activity in this field was rather marked.

In their messages to the General Assembly both Governor Ralston and Governor Goodrich urged the calling of a constitutional convention to draft a constitution which would be more responsive than the existing instrument to the economic and social progress of the state, and both governors emphasized the impracticability of the prescribed method of amending the Constitution. In addition, Governor Goodrich recommended the adoption of constitutional amendments establishing an executive budget, liberalizing the taxing system, authorizing the classification of counties and cities for the registration of voters, and the appointment of the state superintendent of public instruction.

During the session of 1917 eighteen amendments to the Constitution were proposed, but only two were adopted. The amendments proposed prohibited the increases of the salaries of, or the extension of the terms of public officers during their terms of office; fixed the terms of certain state and county officers at four years; increased the number of judges of the Indiana Supreme Court; empowered the General Assembly to prescribe qualifications for the practice of law; fixed the term of the prosecuting attorney and the state superintendent of public instruction at four years; authorized negroes to serve in the state militia; simplified the process of amending the Constitution; prescribed the qualifications for suffrage; prohibited the manufacture and sale of intoxicating liquor; prescribed tax exemptions for soldiers and indigent persons; and exempted household goods from taxation. The only amendments which were adopted prohibited increases in the sal-

aries and extensions of the terms of public officials during their terms of office,¹ and conferred the right of suffrage on women.²

The most significant measure enacted was a law which called a constitutional convention without submitting the question to a referendum vote, and fixed both the date of the special election at which delegates were to be chosen and the date on which the convention was to assemble.³ Two other bills were introduced which are of quasi-constitutional significance. One of these bills was designed to confer on women the right to vote for presidential electors and for statutory officers. This bill was enacted into law.⁴ The other measure provided that all constitutional amendments submitted to a vote of the electors be printed on a separate ballot. This bill was introduced late in the session and failed to pass.

542. GOVERNOR'S MESSAGE, January 4, 1917: CONSTITUTIONAL CONVENTION

In his final message to the General Assembly, delivered on January 4, 1917, Governor Samuel M. Ralston recommended that the General Assembly provide for the calling of a constitutional convention for the purpose of securing a revision of the Constitution broad enough to permit the passage of such laws as were demanded by the economic and social progress of the state. He particularly emphasized the difficulty of constitutional amendment by means of the procedure provided in the Constitution itself.

Senate Journal, Seventieth Assembly, 1917, pp. 30-32:

An Indiana historian has said that "No more important body of men ever assembled in the state of Indiana than that which met in the Hall of Representatives in the old State Capitol in Indianapolis, Oct. 7, 1850, to revise the constitution of the state." The statement might have gone further without transcending the truth and have declared that no abler body of men than these ever assembled in this state. Their work lives after them and will long be recognized as a memorial to their superior wisdom.

These patriots did not live alone for themselves, but for the future generation of their commonwealth; and they constructed a constitution that was afar in advance of their time, and one that has proven to be a very great

¹ See Document No. 544.

² See Document No. 557.

³ See Document No. 563.

⁴ See Document No. 564.

instrument of civil government. They did not believe, however, that the constitution they made would always meet the needs of the people of Indiana, and this is why they provided for its improvement by amendment. They were wise enough to supplant the constitution of 1816 by their work, and they took it for granted that later generations would be far-seeing enough not to hesitate to set aside the organic law they framed when by so doing they would better promote the public welfare.

Has the time arrived for a new constitution in this state? The Sixty-seventh General Assembly, the majority of which was composed of men of my own political affiliation, evidently thought that it had, for it prepared a new constitution and sought to have it ratified by the people in the briefest possible time.⁵ Both the Republican and Progressive parties, and I think other political parties, have in recent years declared more than once for a new constitution.

It is fair to assume that this action by these different political organizations reflects public opinion on this subject, aside from the views favorable thereto held by the forward-looking men and women of Indiana whose qualifications for citizenship are of the first order.

MANY QUESTIONS UP

There are many sweeping questions in the affairs of government that can not be legislated upon in this state in the absence of numerous amendments to our present constitution, or unless we get a new constitution broad enough to permit the consideration of legislation thereon. Some of these questions doubtless are not of sufficient merit to be legislated on, but that is no objection to the people having an organic law that will permit them to be considered by the general assembly, or that does not practically prohibit any amendment thereto despite the

⁵ See Document No. 505 in Kettleborough, Charles, *Constitution Making in Indiana: A Source Book of Constitutional Documents* . . ., 2:385ff. (*Indiana Historical Collections*, Vol. II, Indianapolis, 1916).

desire of the voters of the state. The mode of amendment prescribed by the present constitution is not satisfactory. Many sober-minded and thinking people believe it is hedged about by difficulties that result in nothing less than the defeat of justice. It prevents the doing of many things that are just and in harmony with the people's most enlightened conscience.

I recommend, therefore, that you call a constitutional convention and that the same be safeguarded as far as possible against partisan politics. The details of such a convention you will have to work out with great deliberation. It will require the exercise of your united wisdom. Nothing but your finest heart impulses and purest purposes should shape your course. A free people's organic law is the covenant of their liberties and should be the exponent of their noblest conception of man's relation to society and civilization.

The members of this convention should be chosen at a special election and under conditions when no partisan issues are to be considered. Their names should be printed on a ballot that bears no political distinction, and everything possible should be done to enable the people to elect men whose qualifications and characters will be an assurance of their desire to serve the public in a wholly disinterested manner.

543. GOVERNOR'S MESSAGE, January 8, 1917:

CONSTITUTIONAL AMENDMENTS AND CONVENTION

In his first message to the General Assembly, delivered on January 8, 1917, Governor James P. Goodrich not only urged the General Assembly to propose specific amendments to the Constitution, but, in addition, to provide for calling a constitutional convention to effect a general revision of the Constitution. The specific amendments which Governor Goodrich recommended were designed to provide for the establishment of an executive budget for the state; to authorize the governor to veto items in appropriation bills; to empower the General Assembly to classify property for the purposes of taxation; to fix a constitutional limit on the tax rate; to prohibit increases in the salaries of public officials during their terms of office; to authorize the General Assembly

to classify counties and cities for the purpose of registering voters; and to provide for the appointment of the state superintendent of public instruction for an indefinite term.

Although Governor Goodrich considered the amendments which he had recommended to be essential to permit the government to operate properly, he was convinced that these changes could "be accomplished more satisfactorily through a constitutional convention than through any other method." Accordingly, he urged the General Assembly to call a constitutional convention to convene in January, 1918 to effect other changes in the Constitution "in conformity with the changed industrial and commercial fabric of society," and because it had "been found almost impossible to amend the present Constitution by the method proposed in the Constitution itself." He further recommended that if a convention were called the proposed constitutional amendments be disregarded.

Senate Journal, Seventieth Assembly, 1917, pp. 62-65:

I submit for your consideration certain proposed amendments to the constitution of our state, which I believe in the public interest should be passed by the general assembly for final submission to the people of the state for their ratification.

BUDGET SYSTEM

The finances of our state call for a more centralized and responsible control. Sound public policy requires that effective measures be adopted for giving the Governor power over the budget which is commensurate with the present responsibility really vested in him by popular opinion. Nothing short of thoroughgoing treatment of the subject which will impose on the Governor the duty of formulating, submitting and defending all budget bills will solve the problem of securing economy and responsibility in the conduct of public business.

I, therefore, recommend that a joint resolution be passed submitting a constitutional amendment by the terms of which there shall be prepared under executive direction a budget for submission to the legislature, and that when such budget is submitted, while any one or more items may be reduced, they can not be increased.

The amendment should further provide that the Governor shall be authorized to veto any one or more items in any appropriation bill.

TAX REFORM

I recommend the adoption of a resolution submitting an amendment to the Constitution authorizing the legislature to classify property, and a further amendment in connection with this, fixing a constitutional limitation upon the tax rate.

INCREASES IN SALARIES

We have witnessed at almost every session of the legislature a constant demand on the part of public officials elected or appointed to office to have their salaries increased.

I believe that there should be a constitutional prohibition against this practice, and I, therefore, recommend a constitutional amendment prohibiting the increase of the salary of any public official for the term of office for which he shall have been elected or appointed.

REGISTRATION OF VOTERS

Under the Constitution, no registration law can be passed, except that which would apply alike to all the voters of the state. It is clearly unnecessary to incur the expense of registering voters in Indiana in more than eight or ten counties. An amendment to the Constitution authorizing the legislature to classify counties for registration purposes not only would result in saving large sums of money to the taxpayers of the state, but also would save much unnecessary trouble to our citizens.

I, therefore, recommend that an amendment to the Constitution be submitted authorizing the classification of counties and cities for registration purposes.

SUPERINTENDENT OF INSTRUCTION

The office of state superintendent of public instruction is a constitutional office at the present time and this offi-

cial is elected by the people of the state; this office should be an appointive one and should be made on merit for an indefinite term of years and the official be permitted to retain his place as long as he renders efficient service to the state.

I recommend that an amendment be submitted authorizing the appointment of the state superintendent of public instruction.

CONSTITUTIONAL CONVENTION

The present Constitution of Indiana was adopted over sixty years ago when the needs of our state were comparatively simple. Naturally, our state charter was drafted to meet conditions as they existed at that time.

Since 1851 our state government has become so complex that many of the provisions of the Constitution which were in point sixty years ago no longer cover our present conditions of society.

Sixty years ago interurbans, telegraphs, telephones, electric light and power plants were unknown. Practically, all property was of a tangible nature and our present methods of doing business through corporations were undeveloped. We were almost altogether an agricultural people and our industrial development, while not wholly unforeseen, was not anticipated in its details.

In this message I have already pointed out certain important measures, especially the proposed remedies for the inequalities of taxation, which require for their consummation constitutional amendments. It has been found almost impossible to amend the present Constitution by the method proposed in the Constitution itself, yet there is an immediate need for the changes specifically indicated, and for other changes in conformity with the changed industrial and commercial fabric of society. The public interest requires that there be no further delay in changing the Constitution so that we may meet squarely the important problems which confront us at this time. I believe, as a matter of fact, that these

changes can be accomplished more satisfactorily through a constitutional convention than through any other method.

The question of holding a constitutional convention has been under public discussion for a number of years, and, therefore, is not a new issue. At various times the Republican party has declared in favor of holding a convention to draft a new Constitution, and in the recent campaign it declared in favor of a number of important amendments in which the people generally have deep concern because of the great benefits which I am sure will be derived from an immediate revision of the Constitution. I feel justified in proposing that this legislature shall call a constitutional convention, to convene in January, 1918. I recommend that the general assembly provide for the election of a suitable number of delegates-at-large and the conduct of the election on a strictly nonpartisan basis.

If this recommendation should be approved by the general assembly, then no consideration need be given to the specific amendments hereinbefore suggested, as they can all be determined by the convention itself.

544. JOINT RESOLUTION, March 7, 1917: TERMS AND SALARIES OF PUBLIC OFFICERS

On January 9, 1917 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 1 proposing an amendment to section 2 of Article XV of the Constitution. The proposed amendment was designed to prohibit increases in the salaries of, and extensions in the terms of public officials during the terms for which they are elected or appointed. This resolution was read the first time on January 9 and was referred to the Committee on Constitutional Revision; on January 25 it was reported for passage and concurred in; on January 26 it was read the second time and ordered engrossed; on February '23 it was read the third time, passed by a vote of 34-0, and was referred to the House.

The resolution was received by the House on February 24, was read the first time and referred to the Committee on Judiciary A; on February 27 it was reported for passage and concurred in; on March 2 it was read the second time and ordered engrossed; on

March 5 it was read the third time, passed by a vote of 57-29, and was transmitted to the Senate. Of the 57 affirmative votes in the House, 55 were cast by Republicans and 2 by Democrats; of the 29 negative votes, 28 were cast by Democrats and 1 by a Republican. On March 5 the resolution was returned to the Senate and ordered enrolled, and on March 7 it was approved by the governor.⁶

Laws of Indiana, 1917, pp. 704-5:

CHAPTER 187.

A JOINT RESOLUTION to amend section two (2) article fifteen (XV) of the constitution of the State of Indiana, relating to the increase of terms and salaries of officers.

[S. Joint Resolution 1. Approved March 7, 1917]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana*, That the following amendment to the constitution of the State of Indiana is hereby proposed and agreed to by this the seventieth (70th) general assembly of the State of Indiana and is referred to the next general assembly of the State for reconsideration and agreement.

SEC. 2. That section two (2), article fifteen (XV) of the constitution of the State of Indiana be amended to read as follows: Section 2. When the duration of any office is not provided for by the Constitution it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the General Assembly shall not create any office, the tenure of which shall be longer than four years, nor shall the salary of any officer fixed by this Constitution or by law be increased during the term for which such officer was elected or appointed.

545. JOINT RESOLUTION: SALARIES OF PUBLIC OFFICERS

On January 9, 1917 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 2 proposing an amendment to section 2 of Article XV of the Constitution. As this amendment was designed to prohibit increases in the salaries of public offi-

⁶ The pending amendment was withdrawn in 1919. See Document No. 573.

cials during the terms for which they are elected or appointed, and as the provisions of this amendment were embraced in Senate Joint Resolution No. 1,⁷ the resolution was never reported but was permitted to expire in committee.

Senate Journal, Seventieth Assembly, 1917, p. 70:

A Joint Resolution to amend section two (2) article fifteen (15) of the Constitution of the State of Indiana relating to the increase of salaries of officers.

Section 1. Be it resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed by this the 70th General Assembly of the State of Indiana and is referred to the next General Assembly of the state for re-consideration and agreement.

Section 2. That section two (2) article fifteen (15) of the Constitution of the State of Indiana be amended to read as follows: Section 2. When the duration of any office is not provided for by the Constitution it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the General Assembly shall not create any office, the tenure of which shall be longer than four years, nor shall the salary of any officer fixed by this Constitution or by law be increased during the term for which such officer was elected or appointed.

546. JOINT RESOLUTION: TERMS OF STATE OFFICERS

On January 9, 1917 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 3 proposing an amendment to section 1 of Article VI of the Constitution. The proposed amendment was designed to fix the terms of office of the secretary of state, auditor of state, and treasurer of state at four years instead of two years. This resolution was read the first time on January 9 and was referred to the Committee on Constitutional Revision; on January 11 it was reported for passage and concurred in; on Jan-

⁷ See Document No. 544.

uary 19 it was read the second time and ordered engrossed; on February 23 it was read the third time, amended by striking out the words "Attorney-General" and "reporter of the Supreme Court," passed by a vote of 36-0, and was referred to the House.

The resolution was received by the House on February 24, was read the first time and referred to the Committee on Judiciary A; on February 27 it was reported for passage and concurred in; on March 2 it was read the second time and ordered engrossed. As no further action was taken on this resolution, the proposed amendment embodied therein was not adopted.

Senate Journal, Seventieth Assembly, 1917, pp. 70-71:

A Joint Resolution to amend section one (1) article six (VI) of the Constitution of the State of Indiana relating to the terms of state officers.

Section 1. Be it resolved, By the General Assembly of the State of Indiana, That the following amendments to the Constitution of the State of Indiana is hereby proposed and agreed to by this the Seventieth (70) General Assembly of the State of Indiana and is referred to the next General Assembly of the State for reconsideration and agreement.

Section 2. That section one (1), article six (6) of the Constitution of the State of Indiana be amended to read as follows:

Section 1. Their [*sic*] shall be elected by the voters of the state a Secretary, an Auditor, a Treasurer of State, Attorney-General, reporter of the Supreme Court⁸ and a Clerk of the Supreme Court.⁹ Said officers and all other State officers created by law and to be elected by the people, except Supreme Court judges, shall severally hold their offices for four years. They shall perform such duties as may be enjoined by law, and no person other than judges shall be eligible to any one of said offices for more than four years in any period of eight years.

⁸ The words "Attorney-General" and "reporter of the Supreme Court" were stricken out on third reading.

⁹ The term of office of the clerk of the Supreme Court is fixed by section 7 of Article VII of the Constitution.

547. JOINT RESOLUTION: TERMS OF COUNTY OFFICERS

On January 9, 1917 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 4 proposing an amendment to section 2 of Article VI of the Constitution. The proposed amendment was designed to fix the terms of office of county treasurers, sheriffs, coroners, and surveyors at four years instead of two years. This resolution was read the first time on January 9 and was referred to the Committee on Constitutional Revision; on January 11 it was reported for passage with an amendment and was concurred in. The amendment adopted inserted the word "and" after the word "Sheriff" and struck out the words "and Surveyor." On January 19 the resolution was read the second time and ordered engrossed; on February 23 it was read the third time and amended by striking out the word "either" and inserting in lieu thereof the word "any." At this juncture the constitutional rule was suspended by a vote of 35-2, and Joint Resolutions Nos. 4, 6, 7, 8, 9, and 10¹⁰ were placed upon their passage, were passed on one roll call by a vote of 34-1, and were referred to the House.

The resolution was received by the House on February 24, was read the first time and referred to the Committee on Judiciary A; on February 27 it was reported for passage and concurred in; on March 2 it was read the second time and ordered engrossed. As no further action was taken on this resolution, the proposed amendment embodied therein was not adopted.

Senate Journal, Seventieth Assembly, 1917, pp. 71-72:

A Joint Resolution to amend section two (2), article six (VI) of the Constitution of the State of Indiana, relating to the term of county officers.

Section 1. Be it resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the Seventieth (70th) General Assembly of the State of Indiana and is referred to the next General Assembly of the State for reconsideration and agreement.

Section 2. That section two (2), article six (VI) of the Constitution of the State of Indiana be amended to read as follows:

¹⁰ For Joint Resolutions Nos. 6, 7, 8, 9, and 10, see Documents Nos. 549, 550, 551, 552, and 553 respectively.

Section 2. There shall be elected in each county by the voters thereof, at the time of holding general elections, a clerk of the Circuit Court, Auditor, Recorder, Treasurer, Sheriff,¹¹ Coroner and Surveyor,¹² who shall severally hold their offices for four years, and no person shall be eligible to either¹³ of said officers [*sic*] for more than four years in any period of eight years.

548. JOINT RESOLUTION: JUDGES OF SUPREME COURT

On January 9, 1917 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 5 proposing an amendment to section 2 of Article VII of the Constitution. The proposed amendment was designed to increase the maximum number of judges of the Indiana Supreme Court from five to twelve, to authorize the court to sit in divisions or *en banc*, and to empower the General Assembly to fix the terms of the judges at not less than six nor more than twelve years. This resolution was read the first time on January 9 and was referred to the Committee on Constitutional Revision. On January 25 the resolution was reported back to the Senate for passage, with the recommendation that the proposed amendment be amended by changing the maximum number of judges from twelve to thirteen. The recommendation of the committee was concurred in. The resolution was read the second time on January 26 and the third time on February 23 and was amended by changing the word "less" to "fewer." On February 26 the resolution passed by a vote of 40-0 and was ordered to be transmitted to the House.

On February 27 the resolution was received by the House, read the first time, and referred to the Committee on Judiciary A, but it was never reported back to the House.

Senate Journal, Seventieth Assembly, 1917, p. 72:

A Joint Resolution to amend section two (2), article seven (VII) of the Constitution of the State of Indiana, relating to judges of the Supreme Court.

Section 1. Be it resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby pro-

¹¹ The word "and" was inserted after the word "Sheriff" by an amendment recommended by the committee and concurred in by the Senate.

¹² The words "and Surveyor" were stricken out by an amendment recommended by the committee and concurred in by the Senate.

¹³ By an amendment made on third reading the word "either" was stricken out and the word "any" inserted in lieu thereof.

posed and agreed to by this the Seventieth (70) General Assembly of the State of Indiana and is referred to the next General Assembly of the State for reconsideration and agreement.

Section 2. That section two (2) article seven (7) of the Constitution of the State of Indiana be amended to read as follows:

Section 2. The Supreme Court shall consist of not less¹⁴ than three nor more than twelve¹⁵ judges, for the purpose of hearing and deciding cases. Such judges may be divided by the General Assembly into groups of not less than three each, and a majority of each group may be authorized to decide cases. If not so divided, the concurrence of a majority of such court shall be necessary for the decision of all cases.

The term of office of such judges shall be fixed by the General Assembly, and such term shall not be less than six nor more than twelve years, and such judges shall be permitted to serve for the term for which they were elected if they so long behave well.

549. JOINT RESOLUTION: QUALIFICATIONS FOR PRACTICE OF LAW

On January 9, 1917 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 6 proposing an amendment to section 21 of Article VII of the Constitution. The proposed amendment was designed to authorize the General Assembly to provide by law for the qualifications of persons admitted to the practice of law. This resolution was read the first time on January 9 and was referred to the Committee on Constitutional Revision; on January 11 it was reported for passage and concurred in; on January 19 it was read the second time and ordered engrossed; on February 23 it was read the third time. At this juncture the constitutional rule was suspended by a vote of 35-2 and Joint Resolutions Nos. 4, 6, 7, 8, 9, and 10¹⁶ were placed upon their passage, were passed on one roll call by a vote of 34-1, and were referred to the House.

¹⁴ On third reading the word "less" was changed to "fewer."

¹⁵ The number was changed in committee to "thirteen."

¹⁶ For Joint Resolutions Nos. 4, 7, 8, 9, and 10, see Documents Nos. 547, 550, 551, 552, and 553 respectively.

The resolution was received by the House on February 24, was read the first time and referred to the Committee on Judiciary A; on February 27 it was reported for passage and concurred in; on March 2 it was read the second time and ordered engrossed. As no further action was taken on this resolution, the proposed amendment embodied therein was not adopted.

Senate Journal, Seventieth Assembly, 1917, pp. 72-73:

A joint resolution to amend section twenty-one (21), article seven (VII) of the Constitution of the State of Indiana, relating to persons admitted to practice law.

Section 1. Be it resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the Seventieth (70th) General Assembly of the State of Indiana and is referred to the next General Assembly of the state for reconsideration and agreement.

Section 2. That section twenty-one (21), article seven (VII) of the Constitution of the State of Indiana be amended to read as follows: Section 21. The General Assembly may by law provide for the qualification of persons admitted to the practice of law.

550. JOINT RESOLUTION: PROSECUTING ATTORNEYS

On January 9, 1917 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 7 proposing an amendment to section 11 of Article VII of the Constitution. The proposed amendment was designed to fix the term of office of the prosecuting attorney at four years instead of two years. This resolution was read the first time on January 9 and was referred to the Committee on Constitutional Revision; on January 11 it was reported for passage and concurred in; on January 19 it was read the second time and ordered engrossed; on February 23 it was read the third time. At this juncture the constitutional rule was suspended by a vote of 35-2 and Joint Resolutions Nos. 4, 6, 7, 8, 9, and 10¹⁷ were placed upon their passage, were passed on one roll call by a vote of 34-1, and were referred to the House.

The resolution was received by the House on February 24, was read the first time and referred to the Committee on Judiciary A; on February 27 it was reported for passage and concurred in; on

¹⁷ For Joint Resolutions Nos. 4, 6, 8, 9, and 10, see Documents Nos. 547, 549, 551, 552, and 553 respectively.

March 2 it was read the second time and ordered engrossed. As no further action was taken on this resolution, the proposed amendment embodied therein was not adopted.

Senate Journal, Seventieth Assembly, 1917, p. 73:

A joint resolution to amend section eleven (11), article seven (VII) of the Constitution of the State of Indiana relating to the extension of terms of Prosecuting Attorneys.

Section 1. Be it resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the Seventieth (70th) General Assembly of the State of Indiana and is referred to the next General Assembly of the state for reconsideration and agreement.

Section 2. That section eleven (11), article seven (VII) of the Constitution of the State of Indiana be amended as follows:

By striking out the words [*sic*] "two," and in lieu thereof insert the word "four."

551. JOINT RESOLUTION: STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

On January 9, 1917 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 8 proposing an amendment to section 8 of Article VIII of the Constitution. The proposed amendment was designed to fix the term of office of the state superintendent of public instruction at four years instead of two years. This resolution was read the first time on January 9 and was referred to the Committee on Constitutional Revision; on January 11 it was reported for passage and concurred in; on January 19 it was read the second time and ordered engrossed; on February 23 it was read the third time. At this juncture the constitutional rule was suspended by a vote of 35-2 and Joint Resolutions Nos. 4, 6, 7, 8, 9, and 10¹⁸ were placed upon their passage, were passed on one roll call by a vote of 34-1, and were referred to the House.

The resolution was received by the House on February 24, was read the first time and referred to the Committee on Judiciary A; on February 27 it was reported for passage and concurred in; on

¹⁸ For Joint Resolutions Nos. 4, 6, 7, 9, and 10, see Documents Nos. 547, 549, 550, 552, and 553 respectively.

March 2 it was read the second time and ordered engrossed. As no further action was taken on this resolution, the proposed amendment embodied therein was not adopted.

Senate Journal, Seventieth Assembly, 1917, pp. 73-74:

A joint resolution to amend section eight (8), article eight (VIII) of the Constitution of the State of Indiana, relating to the extension of terms of State Superintendents of Public Instruction.

Section 1. Be it resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the Seventieth (70th) General Assembly of the State of Indiana and is referred to the next General Assembly of the state for reconsideration and agreement.

Section 2. That section eight (8), article eight (VIII) of the Constitution of the State of Indiana be amended as follows:

By striking out the word "two," and in lieu thereof insert the word "four."

552. JOINT RESOLUTION: STATE MILITIA

On January 9, 1917 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 9 proposing an amendment to section 1 of Article XII of the Constitution. The proposed amendment was designed to permit negroes to serve in the state militia. This resolution was read the first time on January 9 and was referred to the Committee on Constitutional Revision; on January 11 it was reported for passage and concurred in; on January 19 it was read the second time and ordered engrossed; on February 23 it was read the third time. At this juncture the constitutional rule was suspended by a vote of 35-2 and Joint Resolutions Nos. 4, 6, 7, 8, 9, and 10¹⁹ were placed upon their passage, were passed on one roll call by a vote of 34-1, and were referred to the House.

The resolution was received by the House on February 24, was read the first time and referred to the Committee on Judiciary A; on February 27 it was reported for passage and concurred in; on March 2 it was read the second time and ordered engrossed. As no further action was taken on this resolution, the proposed amendment embodied therein was not adopted.

¹⁹ For Joint Resolutions Nos. 4, 6, 7, 8, and 10, see Documents Nos. 547, 549, 550, 551, and 553 respectively.

Senate Journal, Seventieth Assembly, 1917, p. 74:

A joint resolution to amend section one (1), article twelve (XII) of the Constitution of the State of Indiana, relating to the militia of the State.

Section 1. Be it resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the Seventieth (70th) General Assembly of the State of Indiana and is referred to the next General Assembly of the State for reconsideration and agreement.

Section 2. That section one (1), article twelve (XII) of the Constitution of the State of Indiana be amended as follows:

By striking out the word "white" from said section.

553. JOINT RESOLUTION: METHOD OF AMENDING CONSTITUTION

On January 9, 1917 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 10 proposing amendments to sections 1 and 2 of Article XVI of the Constitution. The proposed amendments were designed to provide that amendments to the Constitution be submitted to the voters after adoption by one General Assembly, instead of two as the Constitution now provides; that amendments which have been approved by a majority of the electors voting on the amendment be considered ratified; and that all proposed amendments be submitted to the voters at a general election. This resolution was read the first time on January 9 and was referred to the Committee on Constitutional Revision; on January 11 it was reported for passage with an amendment and was concurred in. The amendment adopted struck out the words "the majority" and inserted in lieu thereof the words "two-thirds." On January 19 the resolution was read the second time and ordered engrossed; on February 23 it was read the third time. At this juncture the constitutional rule was suspended by a vote of 35-2 and Joint Resolutions Nos. 4, 6, 7, 8, 9, and 10²⁰ were placed upon their passage, were passed on one roll call by a vote of 34-1, and were referred to the House.

The resolution was received by the House on February 24, was read the first time and referred to the Committee on Judiciary A;

²⁰ For Joint Resolutions Nos. 4, 6, 7, 8, and 9, see Documents Nos. 547, 549, 550, 551, and 552 respectively.

on February 27 it was reported for passage and concurred in; on March 2 it was read the second time and ordered engrossed. As no further action was taken on this resolution, the proposed amendment embodied therein was not adopted.

Senate Journal, Seventieth Assembly, 1917, pp. 74-75:

A Joint Resolution to amend sections one (1), and two (2), article sixteen (XVI) of the Constitution of the State of Indiana, relating to the method of amending said Constitution.

Section 1. Be it resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the Seventieth (70th) General Assembly of the State of Indiana and is referred to the next General Assembly of the State for reconsideration and agreement.

Section 2. That section one (1) and two (2), article sixteen (XVI) of the Constitution of the State of Indiana be amended to read as follows:

Section 1. Any amendment or amendments to this Constitution may be proposed at a regular session in either branch of the General Assembly, and if the same shall be agreed to by the majority²¹ of the members elected to each of the two Houses, such proposed amendment or amendments shall be entered on their journals, and then it shall be the duty of the General Assembly to submit such amendment or amendments to the electors of the State at the next general election, and if the majority of the electors voting thereon shall ratify the same, such amendment or amendments shall become a part of this Constitution.

Section 2. If two (2) or more amendments shall be submitted at the same time, they shall be submitted in such a manner that the electors shall vote for or against each of such amendments separately.

²¹ The words "the majority" were stricken out by an amendment proposed by the committee and concurred in by the Senate and the words "two-thirds" inserted in lieu thereof.

554. JOINT RESOLUTION: QUALIFICATIONS OF VOTERS

On January 10, 1917 William H. Bartel (Rep.) introduced House Joint Resolution No. 1 proposing an amendment to section 2 of Article II of the Constitution. The proposed amendment was designed to require foreign-born persons to live in the United States for three years and to require all persons to pay a poll tax, in addition to all other qualifications, before being entitled to vote. The resolution was read the first time on January 10 and was referred to the Committee on Judiciary A; on February 14 it was reported for passage and concurred in; on February 16 it was read the second time, amended by striking out the word "three" and inserting in lieu thereof the word "five," and ordered engrossed; on February 27 it was read the third time and indefinitely postponed.

Original Printed House Joint Resolution No. 1:

A JOINT RESOLUTION proposing an amendment to section two (2), article two (II) of the constitution of the State of Indiana relating to qualifications of electors.

SECTION 1. Be it resolved by the General Assembly of the State of Indiana, That the following amendment to section two (2) of article two (II) of the constitution of the State of Indiana is hereby proposed and agreed to by this the 70th General Assembly of the State of Indiana and is hereby referred to the general assembly to be chosen at the next general election for consideration, agreement and adoption.

SEC. 2. That section two (2) of article two (II) of the constitution of the State of Indiana be amended to read as follows: Section 2. In all elections not otherwise provided for by this constitution, every male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the state during the six months, and in the township sixty days, and in the ward or precinct thirty days immediately preceding such election; and every male of foreign birth, of the age of twenty-one years and upwards, who shall have resided in the United States three years,²² and shall have resided

²² By an amendment on second reading, the word "three" was stricken out and the word "five" inserted in lieu thereof.

in this state during the six months, and in the township sixty days, and in the ward or precinct thirty days, immediately preceding such election, and shall have declared his intention to become a citizen of the United States, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote in the township or precinct where he may reside, if he shall have been duly registered according to law, and shall have paid his poll tax due and payable the year of such election and the year previous thereto.

555. JOINT RESOLUTION: QUALIFICATIONS OF VOTERS

On January 11, 1917 Senator Andrew H. Beardsley (Rep.) introduced Senate Joint Resolution No. 11 proposing an amendment to section 2 of Article II of the Constitution. The proposed amendment was designed to confer suffrage on women, to restrict suffrage to native-born or fully naturalized persons, and to require a residence of one year in the state as a qualification for voting. The resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 25 it was reported for passage with an amendment restricting the right of suffrage to male persons, and concurred in; on February 9 it was read the second time and ordered engrossed; on February 15 it was read the third time, passed by a vote of 37-2, and was referred to the House.

The resolution was received by the House on February 16, was read the first time and referred to the Committee on Judiciary A; on February 27 it was reported for passage and concurred in; on March 2 it was read the second time and ordered engrossed. As no further action was taken on this resolution, the proposed amendment embodied therein was not adopted.

Senate Journal, Seventieth Assembly, 1917, pp. 98-99:

A Joint Resolution proposing an amendment to section two (2) article two (2) of the Constitution of the State of Indiana in regard to qualified electors.

Section 1. Be it resolved by the General Assembly of the State of Indiana, that the following amendment to the Constitution of the State of Indiana be and is hereby proposed and agreed to by this, the Seventieth (70th) General Assembly of the State of Indiana and is referred to the next General Assembly of the State for its consid-

eration and agreement: Sec. 2. That section two (2) article two (2) of the Constitution of the State of Indiana be amended to read as follows: Section 2. In all elections not otherwise provided for by this Constitution, every²³ citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the one year, and in the township sixty days, and in the ward or precinct thirty days immediately preceding such election, shall be entitled to vote in the township or precinct where he may reside, if he shall have been duly registered according to law.

556. JOINT RESOLUTION: INTOXICATING LIQUOR

On January 11, 1917 Senator James Porter (Rep.) introduced Senate Joint Resolution No. 12 proposing an amendment to Article XV of the Constitution by adding thereto a new section to be numbered section 11. The proposed amendment was designed to prohibit the manufacture, sale, barter, and exchange of intoxicating liquor. This resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 29 it was reported for passage and concurred in; on January 30 it was read the second time and ordered engrossed; on February 19 it was read the third time, passed by a vote of 33-3, and was referred to the House.

The resolution was received by the House on February 20, was read the first time and referred to the Committee on Judiciary A; on February 27 it was reported for passage and concurred in; on March 2 it was read the second time and ordered engrossed. As no further action was taken on this resolution, the proposed amendment embodied therein was not adopted.²⁴

Senate Journal, Seventieth Assembly, 1917, pp. 99-100:

A Joint Resolution proposing an amendment to article fifteen (15) of the Constitution of the State of Indiana, adding thereto a further section to be numbered section eleven (11) which section provides for the prohibiting of the manufacture, sale, barter or exchange of vinous, spirituous, malt or brewed liquors or beverages.

²³ A committee amendment concurred in by the Senate inserted the word "male" before the word "citizen."

²⁴ An act prohibiting the manufacture and sale of intoxicating liquor in the state of Indiana was passed at this same session and approved on February 9. *Laws of Indiana*, 1917, p. 15.

Section 1. Be it Resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the Seventieth (70th) General Assembly of the State of Indiana, and is hereby referred to the next General Assembly of the State of Indiana for its consideration and agreement.

Sec. 2. That article fifteen (15) of the Constitution of the State of Indiana be amended by adding thereto a further section to be numbered section eleven (11), to read as follows: Section 11. The manufacture, sale, barter or exchange of intoxicating liquors or beverage, whether spirituous, vinous, malt or brewed, is hereby forever prohibited in the State of Indiana, except for the manufacture and sale of alcohol for medical, scientific, sacramental or mechanical purposes.

The General Assembly shall enact suitable laws for the enforcement of the provisions of this section.

557. JOINT RESOLUTION, March 7, 1917: WOMAN SUFFRAGE

On January 25, 1917 Senator Andrew H. Beardsley (Rep.) introduced Senate Joint Resolution No. 14 proposing an amendment to Article II of the Constitution by adding thereto a new section to be numbered section 15. The proposed amendment was designed to confer the right of suffrage on all native-born and fully naturalized women of the age of 21 years and over who possess the residential qualifications prescribed for male voters. This resolution was read the first time on January 25 and was referred to the Committee on Constitutional Revision; on February 6 it was reported for passage and concurred in; on February 9 it was read the second time and ordered engrossed; on February 16 it was read the third time, passed by a vote of 35-2, and was referred to the House.

The resolution was received by the House on February 19, was read the first time and referred to the Committee on Judiciary A; on February 27 it was reported for passage and concurred in; on March 1 it was read the second time and ordered engrossed; on March 3 the resolution was handed down for third reading and, while under consideration, Andrew H. Sambor (Rep.) moved that the further consideration of the resolution be indefinitely post-

poned. Mr. Wright moved to lay Mr. Sambor's motion on the table. Pending the consideration of this question, J. Glenn Harris (Rep.) raised the point of order "that the House had heretofore indefinitely postponed an identical resolution."²⁵ Thereupon the Speaker appointed Andrew H. Sambor (Rep.) and Maurice Douglass (Dem.) a committee "to investigate the facts and report." Later the same day, the committee submitted the following report: "We, your committee to compare Senate Joint Resolution No. 14, with House Resolution No. 2, find the material difference in the two Resolutions is—Senate Resolution provides a residentship in the State of one year—House Resolution of six months." Upon the submission of the report of the special committee, the Speaker ruled that Mr. Harris' point of order was not well taken. The question then recurred upon the original motion of Mr. Sambor to indefinitely postpone, which was lost. The resolution was then placed upon its passage, was passed by a vote of 61-23, and was ordered to be transmitted to the Senate. Of the 61 affirmative votes, 45 were cast by Republicans and 16 by Democrats; of the 23 negative votes, 14 were cast by Democrats and 9 by Republicans. The resolution was returned to the Senate on March 5, was enrolled, and was approved by the governor on March 7.

Laws of Indiana, 1917, p. 705:

CHAPTER 188.

A JOINT RESOLUTION proposing an amendment to article two (2) of the constitution of the State of Indiana, adding thereto a further section to be numbered section fifteen (15) which section provides how females, who are citizens of the United States, shall qualify as electors.

[S. Joint Resolution 14. Approved March 7, 1917.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana*, That the following amendment to the constitution of the State of Indiana be and is hereby proposed and agreed to by this, the seventieth (70th) general assembly of the State of Indiana, and is referred to the next general assembly of the State for reconsideration and agreement.

SEC. 2. That article two (2) of the constitution of the State of Indiana is amended by adding thereto a fur-

²⁵ House Rule No. 68 provides that "when a question is postponed indefinitely . . . the same shall not be acted on again during the session." House Joint Resolution No. 2, conferring the right of suffrage on women, was indefinitely postponed on February 27. See Document No. 558.

ther section to be numbered section fifteen (15) to read as follows:

Section 15. In all elections not otherwise provided for by this constitution, every female citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the one year and in the township sixty days, and in the ward or precinct thirty days immediately preceding such election, shall be entitled to vote in the township or precinct where she may reside, if she shall have been duly registered according to law.²⁶

558. JOINT RESOLUTION: WOMAN SUFFRAGE

On January 26, 1917 Walter J. Behmer (Rep.) introduced House Joint Resolution No. 2 proposing an amendment to section 2 of Article II of the Constitution. The proposed amendment was designed to confer the right of suffrage on women. This resolution was read the first time on January 26 and was referred to the Committee on Judiciary A; on February 14, it was reported for passage and concurred in; on February 16 it was read the second time and ordered engrossed; on February 27 it was handed down for third reading, and, on motion of Emil V. Anderson (Rep.), it was indefinitely postponed.

House Journal, Seventieth Assembly, 1917, pp. 163-64:

A joint resolution amending section two (2), article two (II), of the Constitution of the State of Indiana.

Section 1. Be it resolved by the General Assembly of the State of Indiana, that the following proposed amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this, the seventieth (70th) General Assembly of the State of Indiana and referred to the next General Assembly for consideration and agreement.

Section 2. That section two (2), article two (II), of the Constitution of the State of Indiana, be amended to read as follows:

Section 2. In all elections hereafter held in the State of Indiana, every citizen of the United States,

²⁶ The pending amendment was withdrawn in 1919. See Document No. 573.

of the age of twenty-one years and upward, who shall have resided in the State during the six months, and in the township sixty days, and in the ward or precinct thirty days, immediately preceding such election, and every citizen of foreign birth of the age of twenty-one years and upwards, who shall have resided in the United States one year, in the State of Indiana, during the six months, in the township sixty days, and in the ward or precinct thirty days, immediately preceding such election, and who shall have declared, his, or her, intention to become a citizen of the United States, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote in the township or precinct, where he, or she, may reside, if he, or she, shall have been duly registered according to law.

559. JOINT RESOLUTION: TAX EXEMPTION

On January 26, 1917 William R. Jinnett (Rep.) introduced House Joint Resolution No. 3 proposing an amendment to section 1 of Article X of the Constitution. The proposed amendment was designed to authorize the General Assembly to exempt the property of soldiers and sailors from taxation, in amounts not exceeding \$1000. This resolution was read the first time on January 26 and was referred to the Committee on Judiciary A; on February 14 it was reported for passage and concurred in; on February 16 it was read the second time and ordered engrossed; on February 27 it was handed down for third reading, and, on motion of Ira A. Kessler (Rep.), it was indefinitely postponed.

House Journal, Seventieth Assembly, 1917, p. 166:

A joint resolution proposing an amendment to section one (1) of article ten (X) of the Constitution of the State of Indiana exempting from taxation the property of all soldiers and sailors who served in either the Mexican or Civil wars, and the property of the widows of all such soldiers and sailors who were married prior to 1870.

Section 1. Be it resolved by the General Assembly of the State of Indiana, that the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this, the seventieth (70th) General Assembly of the State of Indiana, and is hereby

referred to the seventy-first (71st) General Assembly of the State of Indiana for their consideration and agreement: That section one (1) of article ten (X) of the Constitution of the State of Indiana be amended to read as follows: Section 1. The General Assembly shall provide, by law, for a uniform and equal rate of assessment and taxation; and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious or charitable purposes, as may be specially exempted by law.

The General Assembly may also exempt from taxation the property of soldiers and sailors who served either in the Mexican or Civil wars and the widows of such sailors and soldiers when the marriage shall have been consummated prior to 1870, in any amount not exceeding one thousand dollars (\$1,000).

560. JOINT RESOLUTION: TAX EXEMPTION

On January 30, 1917 Harry B. Dynes (Rep.) introduced House Joint Resolution No. 4 proposing an amendment to section 1 of Article X of the Constitution. The proposed amendment was designed to authorize the General Assembly to exempt from taxation the property of widows and orphans in indigent circumstances, in amounts not exceeding \$500. This resolution was read the first time on January 30 and was referred to the Committee on Judiciary A; on February 14 it was reported for passage and concurred in; on February 16 it was read the second time and ordered engrossed; on February 27 it was handed down for third reading, and, on motion of Ralph R. Jacoby (Dem.), it was indefinitely postponed.

House Journal, Seventieth Assembly, 1917, pp. 201-2:

A joint resolution proposing an amendment to section one (1) of article ten (X) of the constitution concerning the exemption of the property of widows from taxation.

Section 1. Be it resolved by the General Assembly of the State of Indiana, That the following proposed amendment to section one (1) of article ten (X) of the constitution of this state is hereby proposed and agreed to by this the seventieth (70th) General Assembly and is

hereby referred to the General Assembly to be chosen at the next general election of 1918. That section one (1) of article ten (X) be amended so as to read as follows:

Section 1. The General Assembly shall provide, by law, for a uniform and equal rate of assessment and taxation; and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious or charitable purposes, as may be specially exempted by law. The General Assembly may likewise exempt from taxation the property of widows and orphans who are in indigent circumstances in any amount not to exceed the sum of five hundred dollars.

561. JOINT RESOLUTION: TAX EXEMPTION

On February 12, 1917 Harry B. Dynes (Rep.) and Newman T. Miller (Rep.) introduced House Joint Resolution No. 6 proposing an amendment to section 1 of Article X of the Constitution. The proposed amendment was designed to authorize the General Assembly to exempt from taxation the household goods of any person in any amount not exceeding \$200. This resolution was read the first time on February 12 and was referred to the Committee on Judiciary B; on February 16 it was reported for passage and concurred in; on February 20 it was read the second time and ordered engrossed; on February 27 it was handed down for third reading, and, on motion of John B. Dilworth (Rep.), it was indefinitely postponed.

House Journal, Seventieth Assembly, 1917, p. 339:

A Joint Resolution proposing an amendment to section one (1) of article ten (X) of the constitution concerning taxation by providing for the exemption of household goods to the value of two hundred dollars (\$200).

Section 1. Be it resolved by the General Assembly of the State of Indiana, That the following amendment to section one (1) of article ten (X) of the constitution is hereby proposed and agreed to by this the Seventieth General Assembly and is hereby referred to the General Assembly to be chosen at the general election to be held in the year 1918.

Section 2. That section one (1) of article ten (X) of the constitution be amended to read as follows: Section 1. The General Assembly shall provide, by law, for a uniform and equal rate of assessment and taxation; and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious or charitable purposes, as may be specially exempted by law. The General Assembly may exempt from taxation the household goods of any person in any amount not to exceed two hundred dollars.

562. SENATE BILL: CONSTITUTIONAL CONVENTION

On January 10, 1917 Senators Harry E. Negley (Rep.) and Abram Simmons (Dem.) introduced Senate Bill No. 22, providing for calling a constitutional convention and for the election of delegates thereto. The bill was read the first time on January 10 and was referred to the Committee on Constitutional Revision. With the exception of four unimportant differences, this bill is identical with House Bill No. 59.²⁷ It was permitted to repose in the committee and precedence was given to the House bill, which was finally enacted into law.

Original Senate Bill No. 22:

A Bill for An Act to provide for the election of delegates to a convention to revise the constitution of the State and providing for the assembling of the convention and preparations incidental to the conduct of the convention and making appropriation therefor.

²⁷ The first term "legal voters" in section 1 of House Bill No. 59 reads "vote of the people" in Senate Bill No. 22. The second term "legal voters" in section 1 of House Bill No. 59 reads "people" in Senate Bill No. 22. The following provision which occurs in section 2 of the House bill is not contained in the Senate bill: "No person shall be a delegate, who, at the time of his election, is not a citizen of the United States; nor any one who has not been for two years next preceding his election an inhabitant of the state, and for one year next preceding his election an inhabitant of the county in which he resides at the time of his election." The terms "legal voter having the qualifications required by section two (2) of this act" which occur in two separate places in section 4 of House Bill No. 59 read "citizen of the United States" in Senate Bill No. 22. The word "state" occurs in line 1 of section 16 of the Senate bill before the word "officers," but does not occur in House Bill No. 59. In all other respects Senate Bill No. 22 and House Bill No. 59 were identical when introduced. House Bill No. 59, as amended and enacted into law, is given in Document No. 563.

563. LAW, February 1, 1917: CONSTITUTIONAL
CONVENTION

On January 12, 1917 Charles A. McGonagle (Rep.) introduced House Bill No. 59, providing for calling a constitutional convention and for the election of delegates thereto. This bill was read the first time on January 12 and was referred to the Committee on Ways and Means; on January 17 the bill was reported for passage and concurred in; on January 19 the bill was read the second time, amended, and ordered engrossed; on January 23 the bill was read the third time, passed by a vote of 87-10, and was referred to the Senate. Of the 87 affirmative votes, 62 were cast by Republicans and 25 by Democrats; and of the 10 negative votes, 9 were cast by Republicans and 1 by a Democrat.

The bill was received by the Senate on January 25, was read the first time on January 26, and was referred to the Committee on Judiciary A. On January 30 the committee submitted a divided report. The majority report, which recommended the passage of the bill without amendment, was signed by Harry E. Negley (Rep.), William S. Mercer (Rep.), Rowland H. Jackson (Dem.), Willard B. Gemmill (Rep.), Edward B. James (Rep.), and Edward P. Elsner (Dem.) The minority report recommended the passage of the bill after it had been amended by striking out all of section 1 of the bill after the enacting clause and inserting in lieu thereof four new sections. The four new sections provided for a referendum vote on the question of calling a constitutional convention. The remaining sections of the House bill were retained, but were renumbered to follow the four proposed new sections in numerical order. The minority report was signed by William E. English (Rep.), James R. Fleming (Dem.), Charles A. Hagerty (Dem.), Dwight M. Kinder (Rep.), and Alva O. Reser (Rep.). The suggested amendment was as follows:

Senate Journal, Seventieth Assembly, 1917, pp. 381-82:

That an election shall be held on the third Tuesday in June, 1917, at which the following question shall be submitted to the voters of Indiana, to-wit: Shall a constitutional convention be called to formulate a new constitution for the state? At such election every voter shall be allowed to vote on the question submitted.

The form of the ballot shall be as follows:

Are you in favor of a Constitutional Convention in the year 1918.

☐ Yes.

☐ No.

The board of county commissioners shall supply all ballots and necessary supplies. Such ballots shall be printed on plain white paper four inches square. The expense of printing said ballots and furnishing the ballots, boxes and supplies hereinafter mentioned shall be paid by the respective boards of commissioners of the several counties of the State as other expenses of elections are paid. Each voter shall indicate his desire as to the calling of such convention by marking said ballot in the manner following, viz: If such voter is in favor of calling a Constitutional Convention, he shall make a mark thus "X" in the square in front of the word "Yes;" if he is opposed he shall make a mark thus "X" in the square in front of the word "No."

Such ballots after being marked by the voter shall be deposited in a separate box to be provided for the purpose. The election shall be conducted in all respects like a regular election, except that at such election there shall be one inspector and two clerks appointed by the judge of the circuit court at least ten days before such election.

Sec. 2. At the close of the polls it is hereby made the duty of the several boards of election to canvass the ballots cast upon said question, and the number of votes given for or against the calling of such convention, and such vote shall be canvassed by the county board of canvassers the same as the votes for candidates at a general election are canvassed, certified to the clerks of the circuit court respectfully [*sic*], upon certificates to be furnished such inspectors and board of canvassers, with the other election supplies.

Sec. 3. It shall be the duty of the clerk of the circuit court throughout the State to certify and make return of all votes given for or against the calling of such convention to the secretary of state in the same way and man-

ner that votes for governor are required by law to be certified, and such clerks shall be subject to like penalties for a neglect of duty.

Sec. 4. If a majority of the electors voting at such election shall favor the calling of a Constitutional Convention, an election shall be held on the third Tuesday in September, 1917, at which delegates shall be elected who shall constitute a convention for the purpose of revising the Constitution of the State of Indiana, and which new Constitution shall be submitted to the legal voters of the State of Indiana to be by them ratified or rejected at such time and in such manner as the convention may determine. Upon demand of forty-five delegates any question submitted to the legal voters by the Convention shall be submitted separately.

Upon the submission of the divided report, the question was on substituting the minority report for the majority report. The vote on the substitution was 12-35. Accordingly the minority report was lost, and the majority report was thereupon concurred in. Of the 12 senators who voted for the minority report, 4 were Republicans and 8 were Democrats; of the 35 senators who voted for the majority report, 17 were Republicans, 1 was a Progressive, and 17 were Democrats. The bill was read the second time on January 30 and passed to engrossment; on January 31 it was read the third time, passed by a vote of 33-13, and was returned to the House. Of the 33 affirmative votes, 16 were cast by Republicans, 1 by a Progressive, and 16 by Democrats; of the 13 negative votes, 5 were cast by Republicans and 8 by Democrats. The bill was received by the House, enrolled, and signed by the governor on February 1.²⁸

Laws of Indiana, 1917, pp. 5-12:

CHAPTER 2.

AN ACT to provide for the election of delegates to a convention to revise the constitution of the state and providing for the assembling of the convention and preparations incidental to the conduct of the convention and making appropriation therefor.

[H. 59. Approved February 1, 1917.]

SECTION 1. *Be it enacted by the general assembly of the State of Indiana, That* an election shall be held on

²⁸ The law was declared invalid in *Bennett v. Jackson*, 186 *Indiana*, 533. See Document No. 566.

the third Tuesday in September, 1917, at which delegates shall be elected who shall constitute a convention for the purpose of revising the constitution of the State of Indiana and which new constitution shall be submitted to the legal voters of the State of Indiana to be by them ratified or rejected at such time and in such manner as the convention may determine. Upon demand of forty-five (45) delegates any question submitted to the legal voters by the convention shall be submitted separately.

SEC. 2. The convention shall consist of one hundred and fifteen delegates (115). One hundred (100) delegates shall be elected by the state representative²⁹ districts, each district electing³⁰ as many as there are representatives³¹ from the district, and the remaining fifteen (15) shall be elected by the state at large. No person shall be a delegate, who, at the time of his election, is not a citizen of the United States; nor any one who has not been for two years next preceding his election an inhabitant of the state, and for one year next preceding his election an inhabitant of the county in which he resides at the time of his election. The election shall be proclaimed by the sheriffs of the several counties and shall in all respects, except as provided in this act, be conducted, the returns thereof made and the result canvassed and certified as to delegates at large in the manner provided by law in case of the election of state officers and as to district delegates in the same manner as the vote for state representatives³² is canvassed. All laws regulating elections and prescribing penalties for violation, so far as the same are applicable, shall be in force in said election of delegates the same as are provided by law in the case of general elections. The election officials, shall consist of one inspector and two (2) clerks appointed by the judge of the circuit court of the county

²⁹ "Senatorial" was the original reading.

³⁰ The word "twice" in the original bill after the word "electing" was stricken out.

³¹ "Senators" was the original reading.

³² *Ibid.*

at least ten (10) days before the election and shall have the same powers and receive the same compensation as the inspector and clerks receive at a general election.

SEC. 3. Candidates for members of the constitutional convention shall be nominated by nominating petitions only.

SEC. 4. Any legal voter having the qualifications required by section two (2) of this act may be nominated for delegate to the constitutional convention for a representative³³ district upon a petition in writing filed with the secretary of the state not less than thirty (30) nor more than sixty (60) days prior to the day of election. Such petition shall be signed by not fewer than two hundred (200) qualified voters of the representative³⁴ district. Any legal voter having the qualifications required by section two (2) of this act may be nominated for delegate at large to the constitutional convention, upon a petition filed in like manner with the secretary of state and signed by not fewer than fifty (50) voters residing in each congressional district of the state.

SEC. 5. Such petition shall contain a provision to the effect that each signer thereto pledges himself to support and vote for the candidate or candidates whose nomination is therein requested. Each elector signing a petition shall sign such petition in his own handwriting and shall add to his signature his place of residence in his own handwriting (unless he cannot write and his signature is made by mark), which shall include street and number when there is a street and number. No elector may sign his name to more than one nominating petition for each office to be filled; and where an elector has signed his name to more than one petition, his name shall not be counted on any of the petitions. Nothing herein shall be construed, however, to prevent more than one petition from being signed by the same person up to the

³³ "Senatorial" was the original reading.

³⁴ *Ibid.*

number of members of the convention for whom he will be entitled to vote.

SEC. 6. Each petition may consist of more than one paper, but each separate sheet shall have at the top a statement indicating its purport and shall be sworn to by at least two (2) signers who are resident freeholders that it is bona fide in every respect to the best of their knowledge, and the certificates of such oaths shall be annexed.

SEC. 7. Besides containing the names of the candidates, all petitions shall specify as to each candidate:

1. That he is a candidate for the office of delegate or delegate at large to the constitutional convention.

2. His place of residence, with the street and number thereof, if any.

3. A declaration by the candidate that he will qualify if elected.

SEC. 8. When filed, the petition shall be preserved and be open under proper regulations to public inspection, and if they are in conformity with the provisions of this act, they shall be deemed valid unless objection thereto is duly made in writing within five (5) days after the filing thereof. Such objections and other questions arising in the course of the nomination of said candidate, shall be considered by the secretary of state and his decision shall be final.

SEC. 9. The names of candidates for delegates to the constitutional convention, nominated as provided herein, shall be placed on one independent and separate ballot, without any emblem or party designation.

SEC. 10. The ballot for delegates to the constitutional convention shall be prepared by the state board of election commissioners as now provided by law for ballots for general elections. The ballot for delegates from representative³⁵ districts and at large shall be printed separately. The whole number of ballots to be printed for each district shall be divided by the number of candidates

³⁵ "Senatorial" was the original reading.

for members of the constitutional convention from the district, and the quotient so obtained shall be the number of ballots in each series of ballots to be printed. The names of candidates shall be arranged in alphabetical order in the first series of ballots printed. The first name shall be placed last and the next series printed, and the process shall be repeated in the same manner until each name shall have been first. These ballots shall then be combined in tablets with no two of the same order of names together, except where there is but one candidate. The ballots for the election of delegates at large shall be prepared in like manner.

SEC. 11. The person or persons in each representative³⁶ district equal to the number of delegates to which a representative³⁷ district is entitled and the fifteen (15) candidates for delegates at large receiving the highest number of votes shall be declared elected delegates to the constitutional convention.

SEC. 12. Any vacancy occurring among the delegates from the representative³⁸ districts by death, resignation or otherwise, shall be filled in the same manner provided by law for filling a vacancy in the office of state representative.³⁹ Any vacancy occurring among the delegates at large shall be filled by election by the remaining delegates at large.

SEC. 13. Delegates who shall be elected as aforesaid, shall assemble in convention in the hall of the house of representatives at the capitol in the city of Indianapolis on the second Tuesday in January, nineteen hundred and eighteen (1918) and organize by electing a president and all other necessary officers. It shall be the duty of the secretary of state to attend the convention on the convening thereof; to call over the list of delegates elected; receive the credentials of delegates, and generally, to perform the duties of the organization that are

³⁶ "Senatorial" was the original reading.

³⁷ *Ibid.*

³⁸ *Ibid.*

³⁹ "Senator" was the original reading.

usually discharged by the officer whose duty it is by law to attend to the organization of the house of representatives of this state at the commencement of its session; and should the secretary of state fail to attend in person or by deputy by ten (10) o'clock a. m. on said day, then it shall be the duty of the auditor of state to attend for such purpose. The superintendent of public buildings and grounds shall properly prepare the hall of the house of representatives for the use of the convention.

SEC. 14. Members of the convention shall enjoy the same privileges and immunities in going to, attending upon, and returning from the convention that the members elected to and attending on the general assembly are entitled to by the constitution or by the law. The convention shall be the judge of the election and qualifications of its members; and shall possess the same power to adopt rules, expel a member for disorderly conduct, and punish contempt, that are now exercised by the house of representatives of the general assembly in similar cases. A majority of the delegates elected shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and take measures to compel the attendance of absent members.

SEC. 15. The delegates to the convention shall receive the same mileage and per diem while attending upon the sitting of said convention as members of the general assembly are allowed by law, and all the officers, employes and attendants shall be paid a compensation to be fixed by the convention; all of which expenses, together with such other expenses as may be incurred by the convention, shall be certified by the president of the convention, and shall be paid by the treasurer of state out of any fund not otherwise appropriated, on the warrant of the auditor of state, and an amount sufficient to cover such mileage, compensation and expenses is hereby appropriated.

SEC. 16. The secretary of state and all other officers shall furnish the convention with all such papers, state-

ments, statistical information, copies of records of public documents in their possession as the convention may order or require; and it shall be the duty of the proper officer or officers to furnish the members of the convention with all stationery as is usually furnished the general assembly while in session, which shall be paid for on the certificate of the president, in like manner as provided in the preceding section.

SEC. 17. It shall be the duty of each state, county and municipal officer in the state, to transmit without delay any information at his command which the convention, by resolution or otherwise, may require of him; and if any officer shall fail or refuse to comply with any requirement of this section, he shall forfeit and pay the sum of three hundred dollars (\$300) to be recovered in any court of competent jurisdiction, in an action in the name of the State of Indiana, by the attorney-general, whose duty it shall be to prosecute all cases of delinquency under this section coming to his knowledge or of which he shall be informed. The bureau of legislative and administrative information shall collect, compile and prepare such information and data as it may deem useful to the delegates and the public, including digests of constitutional provisions of other states and an annotation of the present constitution and the same shall be printed and paid for out of the appropriation for the commissioners of the public printing, binding and stationery, and distributed in such manner as the bureau shall determine in order to give the same the widest possible circulation. The bureau shall, in like manner, publish and distribute twenty thousand (20,000) copies of the present constitution of Indiana. The clerical and other expenses of the bureau not exceeding three thousand dollars (\$3,000) is hereby appropriated to be available April 1, 1917. The Indiana historical commission shall furnish for the use of each member a copy of the volume entitled "Constitution Making in Indiana" printed by the commission if the same shall be available.

SEC. 18. It shall be the duty of the secretary of state to cause immediately twenty thousand (20,000) copies of this act to be printed and distributed to the auditors of the counties in proportion to the population of the several counties; the auditor of the county shall deliver one or more of the copies to each inspector of election in the county, appointed as provided in this act.

564. LAW, February 28, 1917: WOMAN SUFFRAGE

On January 16, 1917 Marion H. Maston (Dem.) and Arthur D. McKinley (Rep.) introduced Senate Bill No. 77 authorizing women to vote for presidential electors and all statutory state and local officers. This bill was read the first time on January 16 and referred to the Committee on Rights and Privileges. On February 2 Senator Maston moved "that Senate Bill No. 77 be now brought from the Committee on Rights and Privileges and placed before the Senate." The motion prevailed and the bill was reported forthwith. Thereupon Senator Van Auken moved "that Senate Bill No. 77 be recommitted to the Committee on Rights and Privileges for further consideration and report." The motion was lost by a vote of 22-27. On February 7, the bill was read the second time. While the bill was pending on second reading, Senator English moved to recommit the bill to the Committee on Rights and Privileges with specific instructions to amend as follows:

"First. To strike out of line 8 and 9 of said bill the words 'Delegates to a constitutional convention.'

"Second. To strike out all of section three (3) of said bill and to prepare and insert in lieu thereof a new section providing that the question of granting women the right to vote, under the provisions of said bill, be submitted to the voters of Indiana for their approval or disapproval at the special election to be held on the third (3rd) Tuesday in September, 1917."

By a vote of 16-26, the Senate refused to commit the bill. Senator Reser, seconded by Senator Lanz, then moved that the enacting clause of Senate Bill No. 77 be stricken out, but the motion was lost by a vote of 10-31. Senator Reidelbach then moved to strike out the emergency clause and to substitute in lieu thereof the provision that "This act shall be in full force and effect from and after January 1st, 1918." Senator Negley moved to amend the amendment by providing merely that the emergency clause be stricken out, and Senator Negley's motion prevailed by a vote of 25-15. The bill was then ordered to engrossment. On February 8 the bill was read the third time, passed by a vote of 31-16, and was transmitted to the House.

On February 9 the bill was received by the House; on February 12 it was read the first time and referred to the Committee on Judiciary B; on February 20 it was reported for passage and concurred in; on February 22 the bill was handed down for second reading. While pending on second reading, Mr. Haslanger moved to amend the bill by inserting the following after the first word "election" where it occurs in the bill: "and every woman of foreign birth who is a citizen of the United States, or whose husband has declared his intention to become a citizen of the United States." This motion was laid on the table. Mr. Davis, of Lake, then moved to amend the bill by striking out the words, "delegates to a constitutional convention," and by adding a new section, to be numbered section 3, to provide that "This act shall take effect and be in full force on and after the first day of October, 1917." This motion was likewise laid on the table. At this juncture the constitutional rule was suspended by a vote of 70-21,⁴⁰ the bill was placed upon its passage, passed by a vote of 68-24, and was transmitted to the Senate.

The bill was returned to the Senate on February 23, and was passed to enrollment; it was signed by the governor on February 28.⁴¹

Laws of Indiana, 1917, pp. 73-74:

CHAPTER 31.

AN ACT granting women the right to vote for presidential electors and certain other officers, and to vote in certain elections.

[S. 77. Approved February 28, 1917.]

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That every woman who is a citizen of the United States of the age of twenty-one (21) years and upward, who shall have resided in this state during the six (6) months, and in the township sixty (60) days, and in the ward or precinct thirty (30) days, immediately preceding any election, shall be entitled to vote in the township or precinct where she may reside, shall be allowed to vote at such election for presidential electors, delegates to a constitutional convention, for attorney-general, for chief of the bureau of statistics, for state geologist, for reporter of the supreme court, for

⁴⁰ The vote is given in the *House Journal* as 70-22, but the names listed total 70-21.

⁴¹ The law was subsequently held invalid. See Documents Nos. 566 and 567.

judges of the appellate court, the superior courts, criminal courts, probate courts and juvenile courts; for members of the county council; for county assessor; for township trustee, township advisory board and township assessor; for all elective officers of cities and towns; for all school officers elected by the people, and for all other elective officers not provided for in the constitution of Indiana, created by the general assembly of the State of Indiana; and upon all questions other than constitutional amendments, but including the ratification of a new constitution which may be submitted to a vote of the people of the state or of any subdivision thereof, or of any municipality; and in any primary election such women shall have the right to vote for all officers nominated or elected at such primaries.

SEC. 2. Separate ballot boxes and ballots shall be provided for women, which ballots for officers shall contain the names of candidates who are to be voted for by women, and the ballots cast by women shall be canvassed and counted separately and shall be canvassed with other ballots. At any such election where registration is required, women voters shall be registered in the same manner as men voters.

565. BILL: CONSTITUTIONAL AMENDMENT BALLOTS

On February 26, 1917 Joseph P. Hemphill (Dem.) introduced Senate Bill No. 445 providing that when constitutional amendments are submitted to the voters they shall be printed on separate ballots. This bill was read the first time on February 26 and was referred to the Committee on Constitutional Revision. On February 28, the bill was reported for passage and the report concurred in, but no further action was ever taken.

Original Senate Bill No. 445:

A Bill for an Act to provide that whenever a proposed amendment or proposed amendments to the constitution of the State of Indiana are submitted to the electors of the state for their ratification or rejection, the same shall be printed on a separate ballot.

Section 1. Be it enacted by the general assembly of the State of Indiana, That whenever a proposed amendment or proposed amendments to the constitution of the State of Indiana are submitted to the electors of the state for their ratification or rejection, the same shall be printed on a separate ballot or ballots, which said ballot or ballots shall be separate, distinct and apart and in no instance shall be attached to or made a part of the state or other ballot.

Sec. 2. All laws and parts of laws in conflict herewith are hereby repealed.

566. BENNETT *v.* JACKSON, July 13, 1917:
CONSTITUTIONAL CONVENTION

The General Assembly of 1917 enacted a law which provided for the calling of a constitutional convention without previously submitting the question to a vote of the electors. The election of the delegates constituting the convention was to be held on the third Tuesday in September, 1917, and the convention was to assemble on the second Tuesday in January, 1918.⁴² At the same session the General Assembly enacted a law which was designed to confer on women the right to vote for presidential electors, delegates to a constitutional convention, and all elective officers not provided for in the state Constitution.⁴³ During the year 1917 a case was instituted before Judge William W. Thornton of the Superior Court of Marion County to test the constitutionality of these two acts. In his decision Judge Thornton held the act calling a constitutional convention valid and the act conferring the right of suffrage on women void. From this decision an appeal was taken to the Indiana Supreme Court in the case known as *Bennett v. Jackson*. The court held the act calling a constitutional convention void, but expressed no opinion as to the validity of the law conferring the right of suffrage on women.⁴⁴

The grounds for holding the act for calling a constitutional convention invalid, and the principles of law enunciated are as follows: (1) The Supreme Court has jurisdiction to determine the constitutionality of an act providing for the calling of a constitutional convention. (2) The General Assembly has no authority to call a convention to revise the Constitution or to make a new one

⁴² See Document No. 563.

⁴³ See Document No. 564.

⁴⁴ See Document No. 567.

without first submitting the question to the voters of the state and receiving an affirmative answer. (3) Since the question of calling a constitutional convention was submitted to the voters in 1914 and decisively defeated,⁴⁵ the will of the people as expressed in the election of 1914 is as binding on the General Assembly as a positive prohibition of the Constitution would be. A dissenting opinion was written by Judge Moses B. Lairy.

186 *Indiana*, 533-55:

BENNETT *v.* JACKSON, SECRETARY OF STATE ET AL.

[No. 23,330. Filed July 13, 1917. Rehearing denied October 3, 1917.]

1. CONSTITUTIONAL LAW.—*Judicial Powers.—Determination of Law.—Scope of Authority.—New Constitution.—Calling Convention.*—The Supreme Court has jurisdiction to determine the constitutionality of an act of the legislature providing for the calling of a constitutional convention. p. 536.
2. INJUNCTION.—*Grounds for Equitable Relief.—Expenditure of Public Money under Invalid Law.*—In an action by a taxpayer, for himself and in behalf of all the other taxpayers of the State, to enjoin the calling of a constitutional convention under an alleged invalid law, where it appears that defendant state officials intend to expend a large amount of public funds in complying with such law, a case for equitable relief is presented. p. 537.
3. CONSTITUTIONAL LAW.—*Power of Legislature.*—Within the field of legislation as fixed by §1, Art. 4, of the Constitution, the legislature is supreme, and its actions are circumscribed only by the terms of the state or federal Constitution. p. 538.
4. CONSTITUTIONAL LAW.—*Legislative Power.—Nature.—Source.*—The legislature has no inherent rights, its power being derived solely from the Constitution, and where an act of the legislature is outside of the particular field fixed by the Constitution and is not strictly legislative within the meaning of §1, Art. 4, thereof, a warrant for the passage of the law must be found, if not in the Constitution, directly from the people. p. 538.
5. CONSTITUTIONAL LAW.—*Amendment of Constitution.—Power of People.*—Under §1, Art. 1 of the Bill of Rights, providing that the people have, at all times, an indefeasible right to alter and reform their government, the people's power over constitutional amendments is supreme, subject only to the condition that a new form of constitution cannot be established without

⁴⁵ See Document No. 529 in Kettleborough, *Constitution Making in Indiana*, 2:569ff. See also *ibid.*, 635-37.

the approval of the general assembly; and, if no positive rule is provided by the fundamental law prescribing a method whereby the people and the legislature may concur in providing for a new constitution, a custom, if fully established, will prevail. p. 539.

6. CONSTITUTIONAL LAW.—*Revision of State Constitution.—Statute.—Validity.*—Where the question of calling a convention to frame a new state constitution was defeated when last submitted at the election held in 1914, the will of the people as expressed at such election was as binding on the general assembly as a positive provision of the Constitution, so that the act of 1917, Acts 1917 p. 5, providing for a convention to revise the Constitution, is null and void as being in conflict with §1, Art. 1, of the Bill of Rights in that it takes away from the people the right to determine when they desire a change in the fundamental law. p. 539.

From Marion Superior Court (106,634) ; *W. W. Thornton*, Judge.

Action by Henry W. Bennett against Ed Jackson, as Secretary of State, and others. From the judgment rendered, plaintiff appeals. *Reversed.*

Charles Martindale, Emory B. Sellers, Samuel Parker and Crane & McCabe, for appellant.

Ele Stansbury, Attorney-General, *U. Z. Wiley, Abram Simmons, Mrs. Edward F. White and Stuart, Hammond & Stuart*, for appellees.

ERWIN, C. J.—Appellant, as plaintiff below, brought this suit for himself and also all electors and all the taxpayers of the State against appellee Jackson, the sheriff of Marion county, the board of commissioners of the county of Marion, the judge of the Marion Circuit Court, and all the clerks of the circuit courts in all the counties of the State to have chapter 2, page 5, Acts 1917, entitled “An act to provide for the election of delegates to a convention to revise the constitution of the state,” etc., and so much of chapter 31, page 73, Acts 1917, entitled “An act granting women the right to vote for presidential electors and certain other officers, and to vote in

certain elections," as grants to women the right and privilege of voting for delegates to a constitutional convention and on the ratification of a new constitution, and each of them severally, considered, held and declared null and void, and asked an injunction against each of the officers, their successors in office, their deputies, assistants, clerks, subordinates and official agents, prohibiting them from doing any act or thing required to be done by said acts, or as therein described or as provided in the general election laws of the State invoked under and by virtue of said acts, and from taking any steps to provide and prepare for, hold, conduct or carry on said proposed election of delegates who shall constitute a convention for the purpose of revising the Constitution of the State of Indiana.

The complaint is in one paragraph and alleges in substance that chapter 2, page 5, Acts 1917, is null and void because the general assembly had no legislative or other power to decide and determine that there should be called and held in this State a constitutional convention to revise the present Constitution or to frame and submit to the people of this State a new constitution to supersede the present Constitution of the State; that the general assembly at its 1913 session (Acts 1913, ch. 304, p. 812) submitted to the electors of the State at the general election of 1914 the question of calling a constitutional convention and that the electors of the State, by a vote of 338,947 to 235,140, said that they did not desire a convention called and thereby declined to authorize the legislature to call a constitutional convention, and that since said election of 1914 there has been no poll taken nor any election held to determine the question as to whether the people of the State would authorize the general assembly to pass an act calling a constitutional convention to revise, alter or amend the present Constitution or to frame a new one to be submitted to the electors of the State for ratification, nor at any other time since the adoption of the Constitution of 1851 has the general as-

sembly of the State been authorized by the electors of the State to call a constitutional convention or to pass an act providing for the calling of the same, and that in passing said act (Acts 1917, ch. 2, p. 5) said general assembly acted wholly without having submitted prior thereto to the qualified electors of the State the question of whether a constitutional convention should be called. It is further averred that the title of the act does not express all the matters and subjects embraced in the act. It is further averred that chapter 31, page 73, of the Acts of 1917, authorizing women to vote for delegates and to ratify the constitution, is void as being in conflict with §2, Art. 2, of the present Constitution, and that as women are not within the class of electors as defined by that section of the present Constitution, the legislature had no power to confer on them the right to vote.

To this complaint all of the defendants filed a joint answer in general denial. The cause was submitted to the court and on proper request special findings of facts were made by the court and conclusions of law stated thereon. The conclusions of law are to the effect: first, that chapter 2, page 5, of the acts of 1917 is not void and that plaintiff, appellant, is not entitled to an injunction in so far as its provisions are concerned; and secondly, that the act granting women the right to vote, etc., is void, and as to that part appellant was entitled to have injunctive relief. Judgment was entered accordingly.

Appellant assigns errors on the first proposition and appellees assign cross-errors on the second proposition, but in view of the conclusion we have reached it will not be necessary for us to discuss the questions presented by the cross-errors.

In the beginning we are confronted with the contention on the part of appellees that this court has no jurisdiction to determine the questions in issue here.

1. In the case of *Ellingham v. Dye* (1912), 178 Ind. 336, 99 N. E. 1, Ann. Cas. 1915 C 200, 231 U. S.

205, 58 L. Ed. 206, this court, after reviewing many decisions as to the power of the courts to determine similar questions, sums up the whole matter, on page 391, as follows: "Whether legislative action is void *for want of power* in that body, or because the *constitutional forms or conditions have not been followed or have been violated* (our italics), may become a judicial question, and upon the courts the ineluctable duty to determine it falls. And so the power resides in the courts, and they have, with practical uniformity, exercised the authority to determine the validity of proposal, submission or ratification of change in the organic law. Such is the rule in this State,"—citing more than forty decisions of this and other states.

Appellees further contend that appellant has not made out a case entitling him to equitable relief. The

2. trial court found that the officers of the State who were intrusted with the execution of the law were about to expend more than \$500,000 under the law, in carrying out its provisions; indeed, it was suggested, in the course of the oral argument, that the necessary expenditures would amount to more than \$2,000,000. This court, in the case of *Ellingham v. Dye, supra*, involving the submission to the people of a constitution prepared by the legislature, answered this same question contrary to the contention of appellees. See pages 413 and 414 of that opinion.

Briefly stated, the principal questions presented for our consideration are: Has the general assembly authority to call a convention to revise the Constitution of the State or to make a new one without first submitting the matter to the voters of the State and receiving an affirmative answer? and, Has the legislature the authority to call a constitutional convention against the will of the people as expressed by the vote of 1914 on that question?

Very able and exhaustive briefs have been filed by both parties to this appeal and clear-cut propositions are presented in each. As was suggested by a learned and able

attorney for appellees, this, in a measure, is a pioneer question in this State, without many precedents on which to rely.

That the people of the State have a right to create a new constitution is conceded by all parties, the only difference of opinion being as to the manner of bringing about that result. It is contended by appellants that the legislature has no right to take the initiative in calling a constitutional convention but can act only after being properly directed by the people of the State in some form of a request or by having the question submitted to them; while appellees contend that the legislature has the right, without any suggestion from the people, to pass a bill or resolution providing for the calling of such convention.

If the passage of such a bill is within the purview of the Constitution governing ordinary legislation, there would be no question but that the general assem-

3. bly might, without any suggestions, proceed to the enactment of such legislation, for the reason that within the field of legislation as fixed by §1, Art. 4, of the present Constitution, the legislature is supreme and its actions are circumscribed only by the terms of the State or federal Constitution. *Ellingham v. Dye, supra*. The almost universal holdings of the courts are to the effect that the duties which may be performed by the general assembly in relation to the change or making of a constitution are not governed by the general rule of authority as set out in §1, Art. 4, *supra*. *Ellingham v. Dye, supra*, 344.

The legislature has no inherent rights. Its powers are derived from the Constitution, and hence, where some action of the legislative body which action is out-

4. side of the particular field fixed by the Constitution and is not strictly legislative within the meaning of §1, Art. 4, *supra*, is sought to be justified, a warrant for the same must be found somewhere—if not in the Constitution, then directly from the people, who, by the terms of §1, Art. 1, of the Bill of Rights, have

retained the right to amend or change their form of government. The right of the people in this re-

5. gard is supreme, subject, however, to the condition that no new form of a constitution can be established on the ruins of the old without some action on the part of the representatives of the old, indicating their acquiescence therein; and, the general assembly being the closest representative of the old, its approval must be obtained by some affirmative act. This is the only orderly way that could be conceived. The question then arises, How may these—the people and the legislature—get together on this proposition? If no positive rule is provided by the fundamental law of the State, then, if a custom has prevailed for a sufficient length of years so that it is said to be fully established, that rule of custom must prevail.

It seems to be an almost universal custom in all the states of the Union, where the constitution itself does not provide for the calling of a constitutional conven-

6. tion, to ascertain first the will of the people and procure from them a commission to call such a convention, before the legislature proceeds to do so. The people being the repository of the right to alter or reform its government, its will and wishes must be consulted before the legislature can proceed to call a convention. 6 R. C. L. §17, p. 27; Hoar, Constitutional Conventions 68 (1917).

We find our own State, under the custom that has prevailed in other states, submitting to the people the question as to whether a convention should be called in the year 1915. (Acts 1913, ch. 304, p. 812.) The court trying this cause has found that on the submission of this question to the people at the regular election in 1914, 338,947 votes were cast against calling and holding the convention and only 235,140 votes were cast favoring it, out of a total vote of nearly 650,000, there being a clear majority against it of more than 103,000. If ever an emphatic protest has been registered against any proposi-

tion, it was in this instance. The court further found that this election was the last expression of the people of the State on the question of calling a constitutional convention. It can not consistently be claimed that the legislature of 1917 had any commission from the people to call a constitutional convention as provided for in chapter 2, page 5, of the Acts of 1917. Under the old Constitution of the State, adopted in 1816, it was provided that the question of calling a constitutional convention should be submitted to the people every twelve years. This was held to be imperative every twelve years but not to prevent its submission at any period of less than twelve years. In 1849 the question was submitted to the people, who, through their will as expressed in an election of that year, commissioned the legislature to call a constitutional convention, which resulted in our present Constitution.

We have not been furnished with the citation of any case, nor have we been able to find one, in which the legislature has disregarded the latest expression of the people in that regard. The trial court finds that the election of 1914, under the act of 1913, is the only time since the adoption of the Constitution of 1851 that the question has been submitted to the people. We are of the opinion that the will of the people as expressed in the election of 1914 is as binding on the general assembly as a positive provision of the Constitution could be, and hence the action of the legislature in calling a constitutional convention as provided for in chapter 2, page 5, of the acts of 1917, is null and void, being in conflict with §1 of the Bill of Rights and taking from the people the right to say when they desire a change in their fundamental law.

It is therefore ordered and adjudged that the judgment of the lower court denying injunction be reversed with directions to restate its first, third, fourth and fifth conclusions of law in conformity with this opinion. So ordered without costs.

Spencer, Harvey, Meyers, JJ., concur.

Lairy, J., does not vote for the reason that he has not been able to advise himself sufficiently at this time. He desires the right to express his views later.

DISSENTING OPINION

LAIRY, J.—The prevailing opinion holds that the act of the legislature of 1917, providing for the calling of a constitutional convention and a preparation of a proposed constitution by such convention and its submission to the people for their approval is unconstitutional and void for two reasons: first, because the legislature possessed no power to call a constitutional convention without first obtaining direct authority from the people to do so by means of a vote on the proposition as to whether they desired a new constitution; and secondly, because the act violates §1, Art. 1 of the State Constitution, which provides that the people have at all times an indefeasible right to alter and amend their form of government. As to the power of the legislature, it is held that such body does possess the power to submit to the people for their vote the proposition as to whether or not they desire a new constitution, but that this marks the limit of its power in respect to initiating a proceeding of this kind unless and until a favorable vote is obtained upon that question, after which it might proceed to call a convention in pursuance of authority thus obtained from the people by their direct vote.

The holding that the legislature is without power in this respect is based upon the proposition that the initiation of a movement by that body for the call of a constitutional convention is not ordinary legislation, and, for that reason, such power is not conferred by §1, Art. 4, *supra*, by which all legislative power is conferred upon the general assembly. It is said that the legislative power thus conferred carries authority to make and repeal laws as rules of civil conduct pursuant to the Constitution and to carry out the details of government so

instituted, but that it does not carry or include authority for fundamental legislation. The conclusion reached is that, as the power to originate a movement for a new constitution by calling a convention is not granted by the section of the Constitution last cited, the legislature can not possess such power unless an express grant thereof be found in some other part of the Constitution, or unless it be obtained by a direct vote from the people.

The statement that the legislature may obtain from the people the power to call a constitutional convention, admits that the general assembly has power from some source to institute a movement of this kind by providing for the submission of such question to a vote of the people. This power is not directly conferred by the Constitution; and, under the holding of the court, it is not one of the ordinary legislative powers granted by §1, of Art. 4, of the Constitution. Whence then comes this power and what is its nature? Within what limits may it be exercised, and how are such limits to be fixed? As the majority opinion holds that the power is not a legislative power, and that it is not conferred by the Constitution, it must be a political power resting in the general assembly as the branch of government which most directly represents the people. This power is not granted by the Constitution and that instrument places no limitations upon it. Can the court limit a power of a co-ordinate branch of government, when the Constitution imposes no limitations? If the legislature has power to initiate a movement of this kind, which all concede, what right has the court to place a limitation upon the power so long as its exercise does not conflict with any provision of fundamental law? If the legislature has power to provide for the submission of the desirability of a new constitution to a vote of the people and may afterward call a convention, why deny that it has the power to call the constitutional convention first and provide that the desirability of the new constitution shall be submitted to the people afterward? Neither of such powers is ex-

pressly granted by the Constitution and neither of such acts is prohibited by it.

When a co-ordinate branch of government assumes to exercise a political or governmental power which is not forbidden by the Constitution and the scope of which is not limited thereby, can the courts interfere with its exercise or fix limitations upon such power? It is claimed that the case of *Ellingham v. Dye* (1912), 178 Ind. 336, 99 N. E. 1, Ann. Cas. 1915 C 200, 23 U. S. 205, 58 L. Ed. 206, and the authorities there cited recognize the right of the courts to limit and control the exercise of such powers; but an examination of the authorities cited will show that they go no further than to hold that the courts may confine the exercise of such powers within the limits fixed by the Constitution. When the Constitution provides that a power shall be exercised in a particular manner, a failure to comply with the provisions of the Constitution in any material respect will vitiate the act and the courts have power to so declare. *State v. Swift* (1880), 69 Ind. 505; *In re Denny* (1901), 156 Ind. 104, 59 N. E. 359, 51 L. R. A. 722; *Hays v. Hays* (1897), 5 Idaho 154, 47 Pac. 732; *Gabbert v. Chicago, etc., R. Co.* (1902), 171 Mo. 84, 70 S. W. 891; *State, ex rel. v. Powell* (1900), 77 Miss. 543, 27 South. 927, 48 L. R. A. 652; *Lobaugh v. Cook* (1905), 127 Iowa 181, 102 N. W. 1121; *State, ex rel. v. Dean* (1909), 84 Neb. 344, 121 N. W. 719; *Carton v. Secretary of State* (1908), 151 Mich. 337, 115 N. W. 429; *McConaughy v. Secretary of State* (1909), 106 Minn. 392, 119 N. W. 408.

However, the power which is here asserted is not forbidden by the Constitution, the manner of its exercise is not prescribed, nor is the scope of its exercise limited by that instrument. It is a political power abiding in the legislature which is an independent co-ordinate branch of the state government. When the legislature representing the people assumes in the exercise of such power to inaugurate a movement for a new constitution and to provide a means by which the people may frame

and adopt such a constitution, if they desire to do so, I do not think that the judicial department can properly deny the power or confine its exercise within limits not fixed by the Constitution.

The government of the state consists of three departments, the legislative, the judicial and the executive. Each of these departments is independent of the other. Each is responsible for its own acts, within constitutional limits, free from interference or control of any other department of government. The legislative branch of the government provided a *modus operandi* by which the people of the State might frame and adopt a new constitution, the executive branch of the government, according to the allegations of the complaint, is about to proceed to carry out the provisions made to that end, but this court, exercising the supreme judicial power of the State interferes and forbids further steps toward carrying out the provisions thus made by the legislature.

The Constitution is the supreme law of the State and when an act of the legislature conflicts with this basic law the Constitution must be upheld, and the act must fail in so far as it is affected by such conflict. It is the province of the court to decide when a conflict exists and this is determined from a consideration of the provisions of the Constitution in connection with the act under consideration. One who asserts that an act of the legislature is violative of the Constitution must point out the specific provision in that instrument with which it conflicts. *Haun v. State, ex rel.* (1914), 183 Ind. 153, 155, 108 N. E. 519.

Before a court should strike down an act of the legislature, it must decide that the act in question conflicts with one or more of the specific provisions of the Constitution. A court may not overthrow an act of the legislature because, in its opinion, such act violates the spirit of our institutions, or impairs rights which it is the object of a free government to protect, or because it encroaches upon the natural rights of citizens. *Townsend*

v. *State* (1896), 147 Ind. 624, 47 N. E. 19, 37 L. R. A. 294, 62 Am. St. 477. If the legislation is not clearly in conflict with some express provision of the State or federal Constitutions it must be upheld. *Levy v. State* (1903), 161 Ind. 251, 68 N. E. 172.

Because it is the peculiar province of the courts to determine what the law is, it is their duty, when two laws conflict, to determine the force and effect of each. If a law is challenged as being in conflict with a provision of the Constitution it is the duty of the court to consider both the law and the Constitution to see if the statute can be upheld and enforced without violating the Constitution. To this end a court will construe a statute which is doubtful in its meaning in such a way, if possible, as to reconcile it with the Constitution and every reasonable doubt will be indulged in favor of its validity. The courts are very reluctant to strike down an act of the legislature, but where the conflict between the statute and fundamental law cannot be reconciled, the statute must yield to the superior force of the Constitution.

This doctrine was first announced in the case of *Marbury v. Madison* (1803), 1 Cranch 137, 177, 2 L. Ed. 60, where it was said: "It is, emphatically, the province and duty of the judicial department, to say what the law is. Those who apply the rule to particular cases, must of necessity expound and interpret that rule. If two laws conflict with each other, the courts must decide on the operation of each. So, if a law be in opposition to the constitution; if both the law and the constitution apply to a particular case, so that the court must either decide that case, conformable to the law, disregarding the constitution; or conformable to the constitution, disregarding the law; the court must determine which of these conflicting rules governs the case: this is of the very essence of judicial duty. If then, the courts are to regard the constitution, and the constitution is superior to any ordinary act of the legislature, the constitution, and not such ordinary act, must govern the case to which

they both apply.” Within the limits thus declared, this case has been approved and followed by the several states, but no court to the writer’s knowledge has gone beyond the limits there announced. The court is concerned in determining whether the legislation is repugnant to any specific provision of the Constitution; but, if it is not found to be in conflict, the court will not concern itself as to the extent of legislative power, unless the manner of exercising the power is prescribed by the Constitution or limitations placed thereon by such instrument. The legislature and the courts both derive their power from the same source—the people. They are coordinate branches of government and each is responsible to the people, the common source of power, for the rightful exercise of the powers they assume. Neither the legislative department nor executive department has any right to question the power which the court exercises and the judicial department has no right to question the power exercised by either of the other departments, where the power is not denied or limited by the Constitution. The legislature has power to pass an act which is unconstitutional and the governor has power to sign it. The courts may, however, declare it void when it is found in a proper proceeding to be in conflict with the basic law. It is void, not because the legislature had no power to pass it, but because its force and effect is overcome by the superior force and effect of the Constitution.

In passing the act of 1917, providing for the calling of a constitutional convention, the legislature assumed the exercise of a power for which it alone is answerable to the people. As before stated this is a political power which rests in the legislature as the representative of the people. It is neither granted by the Constitution nor forbidden by it. The manner of its exercise is not prescribed by that instrument and its scope is in no way limited thereby. Under such conditions the court may not rightfully direct the manner in which the power must

be exercised, neither can it deny the power nor confine its exercise within limits not fixed by the Constitution.

"I entertain no doubt," says Comstock, J., "that, aside from the special limitations of the Constitution, the Legislature cannot exercise powers which are in their nature essentially judicial or executive. These are, by the Constitution, distributed to other departments of the government. It is only the 'legislative power' which is vested in the Senate and Assembly. But where the Constitution is silent, and there is no clear usurpation of the powers distributed to other departments, I think there would be great difficulty and great danger in attempting to define the limits of this power. Marshall, Ch. J., said * * *: 'How far the power of giving the law may involve every other power, in cases where the Constitution is silent, never has been, and perhaps never can be definitely stated.'" *Wynehamer v. People* (1856), 13 N. Y. 378, 391. This language is quoted with approval by Judge Cooley in his able work on Constitutional Limitations. Cooley, Const. Lim. (7th ed.) 128. In the face of such high authority on constitutional law as Chief Justice Marshall and Judge Cooley, I would not attempt to define or limit a power of the legislature not defined nor limited by the Constitution.

In assuming to exercise this power I have no doubt that the legislature acted in good faith and in conformity with the oath taken by each member to the effect that he would support and uphold the Constitution. In determining that it had such power, it was not without respectable authority and precedent. No one denies the right of the people to adopt a new constitution whenever they may desire to do so. Our Constitution makes no provision as to how this may be done. All authorities seem to agree that if a change of the form of government is to be accomplished without a revolution it must be done with the assent of the constitutional government. The movement must originate somewhere. As the legislature directly represents the people, it has been gen-

erally regarded as the appropriate body to initiate a movement of this kind; and, in most, if not all, of the states where new constitutions have been adopted, the movement has originated in the legislature. All writers on constitutions and constitutional law agree in saying that the power to call a constitutional convention for a state resides in the legislature where the existing constitution provides no other means. "But the will of the people to this end can only be expressed in the legitimate modes by which such body politic can act, and which must either be prescribed by the constitution whose revision or amendment is sought, or by an act of the legislative department of the State, which alone would be authorized to speak for the people upon this subject, and to point out a mode for the expression of their will in the absence of any provision for amendment or revision contained in the constitution itself." Cooley, *Const. Lim.* (6th ed.) 42. "It requires no provision in the existing constitution to authorize the calling of a convention for the purpose of revising the fundamental law. The legislative department of the government is alone empowered to take the initiative in calling a constitutional convention, unless a different mode of procedure is laid down in the constitution. And such action may be taken in the form of a joint resolution; a formal statute is not required in order to provide for a lawful convention." 6 *Am. and Eng. Ency. Law* 896. "It has now become the established rule that where the constitution contains no provision for the calling of a convention, but has no provision expressly confining amendment to a particular method, the legislature may provide by law for the calling of a convention—that is, the enactment of such a law is within the power of the legislature unless expressly forbidden, and is considered a regular exercise of legislative power." Dodd, *Revision and Amendment of State Constitutions* 44. Judge Jameson says: "Whenever a constitution needs general revision, a constitutional convention is indispensably necessary; and, if

there is contained in the constitution no provision for such a body, the calling of one is believed to be directly within the scope of the ordinary legislative power." Jameson, *Constitutional Conventions* 211. In the most recent work of constitutional conventions the author takes the position that the power to call constitutional conventions exists in the legislatures of states where no other mode of procedure is prescribed by the constitution, but he asserts that the power thus exercised is not within the scope of ordinary legislative power as stated by Jameson, but that it is a necessary power abiding in the legislature as the body directly representing the people. Hoar, *Constitutional Conventions*, ch. 5. Similar declarations of such authority are found in judicial decisions. *Wells v. Bain* (1874), 75 Pa. St. 39, 47, 15 Am. Rep. 563; *Carpenter v. Cornish* (1912), 83 N. J. Law 254, 83 Atl. 31.

This court in *Ellingham v. Dye*, *supra*, 383, with approval quotes the following: "On the other hand, long-established usage has settled the principle that a general grant of legislative power carries with it the authority to call conventions for the amendment, or revision of the constitution; and even where the only method provided in the constitution for its own modification is by legislative submission of amendments, the better doctrine seems to be that such provision, unless in terms restrictive, is permissive only, and does not preclude the calling of a constitutional convention under the implied powers of the legislative department." Relying on these authorities, the legislature would naturally assume that it had power to call a constitutional convention. The authorities all seem to sustain the power and none can be found to the contrary.

The majority opinion in this case concedes the power to exist in the legislature, but holds that it cannot be exercised until the consent of the people has been secured by a referendum vote on the question of the desirability of such a convention. The Constitution places

no such restriction or limitation on the power. If the power exists in the legislature, it exists subject only to the restrictions placed upon it by the Constitution, and no other can rightfully be imposed by the courts. To do so is an unwarranted assumption of power. Where the Constitution does not prescribe the specific manner in which the power shall be exercised the legislature may determine the manner of such exercise, and the court should not substitute its discretion in this respect for that of the legislature. The legislature in its discretion, adopted a plan by which the people may, if they desire, frame and adopt a new constitution. The majority opinion outlines another plan by which the same result may be accomplished by the people and holds that the plan so outlined is exclusive of all others, and is the only method that can be legally pursued. According to the prevailing opinion the essential thing to the validity of any act of the legislature providing for a constitutional convention is the preliminary submission of the question of the desirability of such convention to a vote of the people. No plan adopted can be valid without such provision. By what authority is such a requirement imposed? The Constitution does not require it and the court has no power to impose it. If the framers of the Constitution of 1851 had prescribed a plan to be followed the legislature would have been bound to follow the method thus prescribed; but, where the Constitution prescribes no plan the court is powerless to do so. The court possesses no legislative powers and it certainly cannot take from or add to the Constitution by one jot or tittle. I think that a court should not by its fiat attempt to limit the power of a co-ordinate branch of the government to any extent further than such power is limited by the Constitution. If a new constitution should be adopted in accordance with the plan outlined by the court, the people would have a new constitution framed by delegates elected by them for that purpose in accordance with the act of the legislature calling the consti-

tutional convention, and if a new constitution were to be adopted in accordance with the plan embodied in the act of 1917, the result would be a new constitution, adopted by delegates elected for that purpose in accordance with the act of the legislature calling the convention. On the other hand, if the attempt to adopt a new constitution failed, the result would be the same no matter which of the plans were followed—the old constitution would remain in force. Reduced to its last analysis, it is clear that the only difference between the plan outlined by the court in its opinion and the plan embodied in the act of 1917 is one of method. The plan recognized by the court may be more wise, more economical, and more expedient than that adopted by the legislature, and while such questions should be considered by the legislature before passing a law, they have no place here. When a court is engaged in considering the validity of a law from a constitutional standpoint it has no ears to hear arguments addressed to questions of wisdom, economy or expediency. *State, ex rel. v. McClelland* (1894), 138 Ind. 395, 399, 37 N. E. 799; *Hirth-Krause Co. v. Cohen* (1911), 177 Ind. 1, 97 N. E. 1, Ann. Cas. 1914 C 708; *Booth v. State* (1912), 179 Ind. 405, 411, 100 N. E. 563, L. R. A. 1915 B 420, Ann. Cas. 1915 D 987.

So the fact, if it be a fact as suggested by counsel in argument, that more than a million dollars of the State's money would be spent in vain if the movement for a new constitution should ultimately fail is of no importance here. The argument that the will of the people as to a constitutional convention could be ascertained by vote at much less expense before calling such convention cannot be considered. Such arguments might have great weight with the legislature and no doubt they were heard and considered there, but they can be given no consideration here. The fact that in 1914 the people of the State by a large majority defeated a proposition to call a constitutional convention was one which might have appealed with much force to the legislature when con-

sidering the act of 1917. It would present a question as to the wisdom and expediency of calling such a convention so soon after such a decisive defeat of a similar proposition, but such a question is exclusively for the consideration of the legislature and that body is responsible to the people for its decision.

So, the fact that in a majority of the states where constitutional conventions have been called the question as to the desirability of calling such convention was submitted to a vote of the people before making the call is not of controlling influence. That method has not been uniformly followed as a number of such conventions have been called without first submitting that question to a vote. For example, Connecticut, 1818; Rhode Island, 1824, 1834, 1841, 1842; New Jersey, 1844; Missouri, 1861, 1865; Arkansas, 1874; North Carolina, 1876; Louisiana, 1879; and Mississippi, 1890. The discretion of the legislature as to the method to be adopted in calling a constitutional convention could not be controlled by the legislature of another state or of any number of states. As to the method adopted it is controlled only by the existing Constitution, and, so long as it does not violate the express or implied provisions of that instrument, it may adopt the method which seems most wise and expedient under existing conditions. The fact that many of the constitutions adopted by other states in recent years contain provisions requiring the legislature to submit to a vote the desirability of calling a constitutional convention and forbidding the call of such convention until a favorable vote has been given is not an argument against the method adopted in passing the act of 1917. Our present Constitution contains no such provision, and the presence of such provisions in the constitutions of other states would indicate that their purpose was to deprive the legislatures of those states of a discretion which would exist and which might otherwise be exercised. It would rather seem that our legislature, in the absence of such a constitutional limitation of

power, would possess the discretion which is denied to legislatures of those states where such constitutional provisions exist.

The decision of the questions involved in the case of *Ellingham v. Dye, supra*, does not control the questions here involved. In that case the legislature sought to frame a constitution for the people and submit it to them for adoption without the intervention of a constitutional convention. It was held that the people had a right to frame their own constitution by a convention composed of delegates elected by them for that purpose. The act under consideration provides for a constitutional convention and it is not open to the objections which were considered vital in that case.

One further question remains to be considered. Does the plan of procedure embodied in the act of 1917 conflict with §1, Art. 1, of the State Constitution, which reserves to the people the indefeasible right to alter and reform their government? Under the plan adopted, the people have a right through delegates elected for that purpose to frame the constitution which would contain such alterations and reformatations in the form of government as seemed proper to the delegates and after the constitution was so framed the people by their vote would have a right to accept or reject the changes thus offered. To my mind the plan adopted by the act does not in any way or to any extent impair or abridge the rights of the people under this section of the Bill of Rights; but, on the other hand it provides a means by which the people may exercise their indefeasible right to alter and reform their government.

I have now discharged a distasteful duty. I regret deeply that I am unable to agree with my brothers on the bench for whose learning, ability and judgment I have a profound and reverential respect. It may be and probably is true that, in view of existing war conditions, this is an ill-chosen time to attempt constitutional revi-

sion. It may be true that the plan adopted by the legislature is unwise, in that it may occasion a useless expenditure of the people's money, if it should be ascertained in the end that a new constitution is not desired, when that fact could have been learned in a manner much less expensive. If the question to be decided involved the wisdom of the plan adopted or its expediency, my conclusion might be against it on those grounds, but, as such considerations can have no place in determining the validity of the plan from a constitutional standpoint, I am forced to the conclusion that the plan for holding a constitutional convention embodied in the act of 1917 is unobjectionable when viewed from that standpoint.

NOTE.—Reported in 116 N. E. 921. Power of courts to determine the validity of the action by a legislature proposing a constitutional amendment, Ann. Cas. 1914 B 925. See under (2) 36 Cyc 917; (3-6) 12 C. J. 682-684.

567. BOARD *v.* KNIGHT, October 26, 1917: WOMAN SUFFRAGE

The General Assembly of 1917 enacted a law which was designed to confer on women the right to vote for presidential electors, delegates to a constitutional convention, and all elective officers not provided for in the state Constitution.⁴⁶ During the year 1917 a case was instituted before Judge John J. Rochford of the Superior Court of Marion County to test the constitutionality of this act. In his decision Judge Rochford held this act invalid,⁴⁷ and from the decision so rendered an appeal was taken to the Indiana Supreme Court. In the case known as Board of Election Commissioners of the City of Indianapolis *v.* Knight the Supreme Court likewise held this act invalid, for the reason that section 2 of Article II of the Constitution defines the electorate as male persons having certain prescribed qualifications and the General Assembly has no authority to extend the right of suffrage to persons who are not included in the constitutional definition. A concurring opinion was written by Judge Moses B. Lairy and a dissenting opinion, by Judge Lawson M. Harvey.

⁴⁶ See Document No. 564.

⁴⁷ Judge W. W. Thornton of the Superior Court of Marion County had previously held this act invalid. See Document No. 566.

187 *Indiana*, 108-53:

BOARD OF ELECTION COMMISSIONERS OF THE CITY OF
INDIANAPOLIS *v.* KNIGHT

[No. 23,375. Filed October 26, 1917. Rehearing denied
February 8, 1918.]

1. INJUNCTION.—*Right to Remedy.—Equitable Relief.—Unconstitutionality of Law.*—Although, as a general rule, a court has no jurisdiction to grant equitable relief against the enforcement of a law alone on the grounds of its alleged unconstitutionality, where it is proved that a compliance with the provisions of a law would necessitate a considerable expenditure of public funds, the taxpayer may, through the aid of a court of equity, secure an early interpretation of the law and, on proper occasion, forestall an illegal expense. p. 111.
2. ELECTIONS.—*Right to Vote.—Woman's Suffrage.*—The right of suffrage is not a natural or an inherent right; it is a political privilege held only by those upon whom it is bestowed either by virtue of express constitutional grant or by authorized legislative provision: hence Art. 2, §2, of the Constitution, which declares that "in all elections not otherwise provided for by this Constitution every male citizen * * * of the age of twenty-one years and upward * * * shall be entitled to vote," being an affirmative grant of privilege, inhibits the legislature from extending, under its broad grant of legislative power contained in Art. 4, §2, the franchise to classes of persons not named. pp. 113, 114.
3. ELECTIONS. — *Woman's Suffrage. — Legislative Power.* — The legislature has no general powers to confer the elective franchise on classes of persons other than those to whom it is given by the Constitution, since the description of those to whom it is given is regarded as excluding all others. p. 114.
4. ELECTIONS.—*Right to Vote.—Woman's Suffrage.—Powers of Legislature.*—In Art. 15, §1, of the Constitution, which declares that all officers whose appointment is not otherwise provided for shall be chosen as prescribed by law, the word "appointment" means the method of selection and authorizes the legislature to determine whether such officers shall be appointed or elected, but does not authorize the legislature to define the electorate that may participate in an election. p. 116.
5. ELECTIONS.—*Right to Vote.—General and School Elections.*—Since school elections, except as to the office of superintendent of public instruction, are governed by Art. 8, §1, of the Constitution, and not by the provisions for the selection of public officers generally, the power of the legislature to name the elec-

torate for school elections does not extend to general elections. p. 118.

6. ELECTIONS.—*Right to Vote.—Powers of Legislature.—“Otherwise Provided For.”*—The manifest purpose of Art. 2, §2, of the Constitution is to designate the voters entitled to participate in *all* elections “not otherwise provided for by this Constitution,” and any effort of the general assembly to establish a different public electorate would necessarily conflict with such section, since an electorate defined by legislative enactment is not “otherwise provided for” by the Constitution, but by the general assembly. p. 119.
7. ELECTIONS.—*Right to Vote.—Extension. — Suffrage. — Powers of Legislature. — Contemporary Construction.*—Although the legislature in passing various local charter laws prior to the adoption of the present Constitution and the general statute of 1852, assumed that the suffrage qualifications then contained in Art. 2, §2, of the Constitution, and in the similar provision of the Constitution of 1816, were not intended to apply in municipal elections, the adoption of the amendment to such section in 1881 by the people without distinction between municipal and state elections overcame the prior legislative construction, so that such construction by the legislature of its power as to suffrage affords no basis for the contention that the legislature has power to extend the suffrage. pp. 120, 123.
8. ELECTIONS. — *Woman’s Suffrage. — Powers of Legislature.*—The Partial Suffrage Act of 1917, Acts 1917 p. 73, is invalid in so far as it purports to grant to women of the city of Indianapolis the right to participate in the election of a mayor, a city judge, a city clerk and members of the common council, it being in conflict with Art. 2, §2, of the Constitution. p. 125.
9. ELECTIONS. — *Woman’s Suffrage. — Power of Legislature.*—Where valid and invalid provisions of an enactment are so closely connected that it is apparent that the legislature would not have passed the act except as a whole, the entire act must fail, hence that part of the Partial Suffrage Act, Acts 1917 p. 73, which attempts to confer on women the right to vote for school officers must fail, since the grant of suffrage appears only as an incident in the exercise of an assumed power to extend the right of political franchise, and no part of the act indicates that the legislature was undertaking to exercise its authority in the administration of the public school system. p. 125.

From Marion Superior Court (126a) *John J. Rochford*, Judge.

Suit by William W. Knight against the Board of Election Commissioners of the city of Indianapolis and others. From a decree for complainant, the defendants appeal. *Affirmed.*

Ele Stansbury, Attorney-General, *Abram Simmons*, *Catherine W. McCulloch*, *Emma Eaton White*, *U. S. Lesh* and *Stuart*, *Hammond & Stuart*, for appellants.

Charles E. Cox and *George H. Batchelor*, for appellee.
Elias D. Salsbury, *amicus curiae*.

SPENCER, C. J.—The general assembly of 1917 passed an act which purports to grant to women of the state the right to vote for certain public officers and at certain elections. Acts 1917 p. 73. It also passed an act concerning the registration of voters generally, of which §12, in effect, undertakes to provide for the registration of women as a condition precedent to their exercise of the right of suffrage. Acts 1917 p. 443. Subsequently to the passage of these enactments, appellee, as a citizen, voter and taxpayer in the city of Indianapolis, instituted this suit in his own behalf, and in behalf of other voters and taxpayers similarly situated, to restrain appellants, as members of the boards of registration and election commissioners, from performing certain acts required of them by the above legislation in connection with a municipal election to be held in the city of Indianapolis on November 6, 1917. It is his contention, briefly, that under the Constitution of the state the right of suffrage may not be extended to women, and this appeal is taken from a decree of the Marion Superior Court which sustains in substance the prayer of the complaint.

Preliminary to a consideration of the case on its merits, we are required first to pass on appellant's assertion that the trial court had no jurisdiction to

1. determine the issues sought to be presented, for the reason that the alleged unconstitutionality of a law is not alone sufficient to authorize the granting of equitable relief against its operation. 14 R. C. L. 435,

§137. Conceding this general proposition, the rule is equally well established that where, as in this case, it is alleged and proved that a compliance with the provisions of the legislation in question would necessitate a considerable expenditure of public funds, the taxpayer may, through the aid of a court of equity, secure an early interpretation of the law and thus, on proper occasion, forestall an illegal expense. *Bennett v. Jackson* (1917), 186 Ind. 533, 116 N. E. 921; *Ellingham v. Dye* (1912), 178 Ind. 336, 413, 99 N. E. 1, 99 N. E. 29, 231 U. S. 205, 58 L. Ed. 206, Ann. Cas. 1915 C 200.

We pass, then, to a consideration of the principal issues presented and find that, in a broad sense, they may be resolved into an inquiry as to whether the general assembly has the power, under any circumstances, to extend the right of suffrage to persons not included within the provisions of Art. 2, §2, of the Constitution. The inquiry thus suggested, although of vital importance, is purely one of constitutional interpretation, and, no matter how we may feel or think as to the principle of universal suffrage, the solution of the question before us may not rest on or be influenced by considerations of social policy or political expediency, but must be reached in strict accordance with recognized canons of constitutional construction. In the exact form which it now takes, the issue is largely one of first impression, at least in this state, although, as will be noted later, this court has previously had occasion to announce certain principles which are applicable to the present inquiry and which affect its solution in some degree. The section of the Constitution now under consideration directs that: "In all elections not otherwise provided for by this Constitution, every male citizen of the United States, of the age of twenty-one years and upward, who shall have resided in the state during the six months, and in the township sixty days, and in the ward or precinct thirty days, immediately preceding such election, and every male of foreign birth, of the age of twenty-one years and up-

wards, who shall have resided in the United States one year, and shall have resided in this state during the six months, and in the township sixty days, and in the ward or precinct thirty days, immediately preceding such election, and shall have declared his intention to become a citizen of the United States, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote in the township or precinct where he may reside, if he shall have been duly registered according to law." Constitution, Art. 2, §2.

As appellants concede, the above provision is mandatory to the extent that it precludes the legislature from modifying its requirements or from imposing on persons therein designated any additional qualifications which shall be prerequisite to their exercise of the right of suffrage. *State v. Shanks* (1912), 178 Ind. 330, 333, 99 N. E. 481; *Morris v. Powell* (1890), 125 Ind. 281, 25 N. E. 221, 9 L. R. A. 326; *Quinn v. State* (1871), 35 Ind. 485, 9 Am. Rep. 754.

But the contention is made that as neither this nor any other section of the Constitution expressly prohibits the legislature from extending the franchise to classes

2. of persons other than those above enumerated, the exercise of that power is within the purview of Art. 4, §1, which vests the legislative authority of the state in the general assembly. This contention rests on the well-established principle that, except as to limitations imposed by the state or the federal Constitution, or by laws or treaties enacted or adopted pursuant to the provisions of the latter instrument, the legislative powers of the general assembly are practically absolute. *Beauchamp v. State* (1842), 6 Blackf. 299, 302. The extent to which this principle is operative finds expression in the rule that if a legislative enactment is properly *within the constitutional grant*, the courts may not declare it invalid on the ground that it is wrong or unjust, or violates the spirit of our institutions, or impairs rights which it is the object of a free government to protect.

Townsend v. State (1896), 147 Ind. 624, 634, 47 N. E. 19, 37 L. R. A. 294, 62 Am. St. 477. At the same time, to adopt a statement made by Chief Justice Marshall in *Fletcher v. Pack* [sic] (1810), 6 Cranch 87, at page 135 (3 L. Ed. 162): "It may well be doubted, whether the nature of society and of government does not prescribe some limits to the legislative power." That doubt has received affirmative recognition by the courts under varying circumstances, but we are not especially concerned at this time with the doctrine of implied limitation on legislative authority, in view of our conclusion that the authority of the general assembly to enact the law in question is necessarily inhibited by Art. 2, §2, of the Constitution. As was decided in *Gougar v. Timberlake* (1896), 148 Ind. 38, 40, 46 N. E. 339, 37 L. R. A. 644, 62 Am. St. 487, the right of suffrage is not a natural or an inherent right, but a political privilege, and it is held only by those on whom it is bestowed, either by virtue of express constitutional grant or through authorized legislative provision. The question is primarily one for the consideration of the people in their capacity as creators of the Constitution, and is never one for the consideration of the legislature except in so far as that instrument clearly sanctions an extension of the elective franchise or permits a regulation of its mode of exercise. *Morris v. Powell*, *supra*; *Minor v. Happersett* (1874), 88 U. S. (21 Wall.) 162, 173, 22 L. Ed. 627; *Coggeshall v. City of Des Moines* (1908), 138 Iowa 730, 737, 117 N. W. 309, 128 Am. St. 221, 6 R. C. L. 287, §273.

If, as appellants insist, the general assembly has the power, under its broad grant of legislative authority, to extend the right of suffrage to women of the state,

2. it may likewise extend the same right to male citizens under the age of twenty-one years and to persons of foreign birth who have not declared
3. their intention to become citizens of the United States. The effect of such a construction would be to place Art. 2, §2, purely within the class of restric-

tive provisions on legislation and practically destroy its character as an affirmative grant of privilege. We need not extend our discussion of this branch of the case, however, as the principle is well established that the legislature has no general power to confer the elective franchise on classes other than those to whom it is given by the Constitution, since its description of those who are entitled thereto is regarded as excluding all others. *State v. Patterson* (1913), 181 Ind. 660, 664, 105 N. E. 228; *Gougar v. Timberlake*, *supra*, 48; *McCafferty v. Guyer* (1868), 59 Pa. St. 109; *Coffin v. Election Commissioners* (1893), 97 Mich. 188, 194, 56 N. W. 567, 21 L. R. A. 662; *Coggeshall v. City of Des Moines*, *supra*, 737; 15 Cyc 298; Cooley, Constitutional Limitations (7th ed.) 99, 245. In this connection, our attention is called to the case of *In re Leach* (1893), 134 Ind. 665, 34 N. E. 641, 21 L. R. A. 701, as authority for the proposition that the maxim "*expressio unius est exclusio alterius*" is not applicable in the construction of a constitutional provision. The decision in that case, however, is to be sustained on the ground that the subject-matter of Art. 7, §21, then under consideration, has reference to an inherent right belonging to every individual rather than on the ground that the principle contained in the maxim is inapplicable as a rule of constitutional interpretation. *Gougar v. Timberlake*, *supra*, 48.

Reference is also made to the fact that from 1851 until its amendment in 1881, the Constitution of Indiana contained a provision (Art. 2, §5) that "No negro or mulatto shall have the right of suffrage," although during that same period Art. 2, §2, was applicable only to *white* male citizens. It is to be remembered, however, that the present Constitution was adopted during a period in the history of this country in which the public mind was greatly concerned with questions of slavery and of the social and political rights of the negro. Those issues had undoubtedly affected the vote on previous occasions when the matter of undertaking a constitutional revision

had been before the people and during the convention of 1850 numerous petitions on the question of negro suffrage, and concerning his political and property rights generally, were presented for consideration. We are warranted, therefore, in considering Art. 2, §5, as an added precaution, indicative of the public mind on an issue which was then of vital importance, rather than as an intended restriction on the effect of Art. 2, §2, and especially is this conclusion justified by the fact that the negro section, although recognized as unnecessary, was adopted on the principal ground that "it can do no harm." 2 Convention Debates 1712, 1737. As opposed to this circumstance, we find that Art. 12, §1, which provides that "The militia shall consist of all able-bodied white male persons," etc., has been uniformly construed as excluding colored persons from the service, and on at least three occasions (1885, 1889 and 1913), a proposition for the amendment of the Constitution in this particular has been submitted to the general assembly.

With proper regard, then, for the constitutional history of the state, as well as for the nature of the question at issue, we have determined that the right

4. of franchise is a political privilege of the highest dignity which can emanate only from the people, either in their sovereign statement of the organic law or through legislative enactment which they have authorized. Our next inquiry is to ascertain whether the Constitution of Indiana authorizes such an enactment. Appellants assert the affirmative of that proposition and rely chiefly on the provision of Art. 15, §1, that "All officers whose appointment is not otherwise provided for in this Constitution, shall be chosen in such manner as now is, or hereafter may be, prescribed by law." The word "appointment," as used in this section, is to be construed as meaning "method of selection" (*McPherson v. Blacker* [1892], 146 U. S. 1, 27, 13 Sup. Ct. 3, 36 L. Ed. 869), and is thus broad enough to allow the legislature to determine whether such officers shall be *appointed*, in the

strict sense of the term, or *elected* by popular vote. We can not agree, however, that, in the latter alternative, the legislature has the further authority to define the electorate which may participate in such election. The right to determine the "manner" in which public officers are to be chosen has reference only to the method or mode of selection and does not include the power to determine the qualifications of the legal voters. *Livesley v. Litchfield* (1905), 47 Ore. 248, 253, 83 Pac. 142, 114 Am. St. 920; *Coffin v. Election Commissioners*, *supra*; *People, ex rel. v. English* (1892), 139 Ill. 622, 629, 29 N. E. 678, 15 L. R. A. 131; *People, ex rel. v. Guden* (1902), (Sup.) 75 N. Y. Supp. 347, 349.

As denying force to the proposition just stated, we are referred to the decision in *Scown v. Czarnecki* (1914), 264 Ill. 305, 106 N. E. 276, L. R. A. 1915 B 247, Ann. Cas. 1915 A 772, and to certain other cases which relate principally to the election of school officials. The suffrage enactment now under consideration is based substantially on the Illinois Woman's Suffrage Law of 1913, which the Supreme Court of that state, in *Scown v. Czarnecki*, *supra*, held to be constitutional on the theory, as stated at page 312 of the opinion, that "if an office is not of constitutional origin it is competent for the legislature to declare the manner of filling it, how, when and by whom the incumbent shall be elected or appointed, and to change, from time to time, the mode of election or appointment." This decision is based expressly on the cases of *Plummer v. Yost* (1893), 144 Ill. 68, 33 N. E. 191, 19 L. R. A. 110, and *People, ex rel. v. English*, *supra*, of which the latter case holds, in part, that as the county superintendent of schools is mentioned in the Illinois Constitution, the legislature has *no authority* to extend to persons not possessed of the constitutional qualifications the right to vote for that officer, even though the Constitution further provides that his "time and manner of election * * * shall be prescribed by law." The court says; at page 630 of the opinion,

that the "word 'manner' * * * indicates merely that the legislature may provide by law the usual, ordinary or necessary details required for the holding of the election." No sound basis is perceived for distinguishing between such a use of the word in the Illinois Constitution and in that of Indiana. It is true that in the one case the Constitution first names the officer and then directs that he shall be *elected* in such "manner" as may be prescribed by law, while in the other the general assembly is authorized to name the officer itself and then to provide for his *election* or *appointment* in such "manner" as may be prescribed by law, but when, under the latter authority, an office has been created and provision made for the *election* of the incumbent, the only remaining step is to determine the "manner" of his election, and the rule as above expressed in the English case is at once applicable. The bare fact, standing alone, that one officer is named in the Constitution and the other is not, affords only an arbitrary ground for distinction as to who may participate in their election. The dissenting opinion of Mr. Justice Cooke, in *Scown v. Czarnecki*, *supra*, considers the Yost and English cases at length and effectively discloses the unsoundness of the majority opinion of his associates, which, in its analysis, rests on an erroneous application of the doctrine of *stare decisis*.

Concerning the school cases, it is enough to note that, except as to the selection of a state superintendent of public instruction, the entire matter of develop-

5. ing the public school system and of providing for its administration rests with the general assembly under Art. 8, §1, of our Constitution, and is in no sense governed by any provision made for the selection of public officers generally. That distinction has long been recognized by the courts of this and other states, although not always based on the same ground. *Kelso v. Cook* (1915), 184 Ind. 173, 184, 110 N. E. 987; *State, ex rel. v. Haworth* (1890), 122 Ind. 462, 466, 23 N. E.

946, 7 L. R. A. 240; *Belles v. Burr* (1889), 76 Mich. 1, 11, 43 N. W. 24; *Plummer v. Yost*, *supra*, 75; *Wheeler v. Brady* (1875), 15 Kan. 26; *State v. Cones* (1884), 15 Neb. 444, 447, 19 N. W. 682.

To return to the question at issue, it is clear that any effort on the part of the general assembly to establish a public electorate which would differ from that defined in Art. 2, §2, of the Constitution must necessarily be in conflict with the manifest purpose of that section to designate the voters entitled to participate in *all* elections "not otherwise provided for by this Constitution." Certain elections in which the members of one or both houses of the general assembly constitute the electorate are "otherwise provided for" in the Constitution and this fact is expressly recognized in Art. 2, §13, which requires that "All elections by the people shall be by ballot; and all elections by the General Assembly, or by either branch thereof, shall be *viva voce*." An electorate defined by legislative enactment is not "otherwise provided for by this Constitution," but by the general assembly, and the passage of such an enactment can be of no force in view of the express constitutional declaration that, except as otherwise provided *in that instrument*, every male citizen who possesses certain qualifications shall be entitled to vote in *all* elections. As was decided in *People, ex rel. v. Canaday* (1875), 73 N. C. 198, 221, 21 Am. Rep. 465, whenever a Constitution designates a certain class of persons as electors or confers on them the right of suffrage, it means that, in the absence of other restrictive provisions contained therein, they shall be entitled "to vote generally whenever the polls are opened and elections held for anything connected with the general government, or the state or local governments." When properly construed, then, Art. 15, §1, vests in the general assembly the right to determine in what manner offices of its own creation shall be filled, but whenever, in the exercise of that power, provision is made for the selection of the incum-

bents by popular vote, the qualifications prescribed in Art. 2, §2, control in fixing the electorate.

It is earnestly insisted, however, that for a long period of time immediately preceding and subsequent to the adoption of our present Constitution, the general

7. assembly regularly assumed to designate the qualifications for legal voters in municipal elections, and that this interpretation by the legislature of its own power is now of controlling importance. We may concede that a uniform and long-continued exposition of a constitutional provision, though not conclusive, is generally entitled to great weight, and should not be departed from unless it is manifestly erroneous or has received disapproval in a subsequent expression of the sovereign will. 6 R. C. L. 63, §60. With this principle in mind, we proceed to a consideration of the constitutional and legislative history of the state as it concerns the question of suffrage in municipal elections. Under the Constitution of 1816, the right of suffrage, "in all elections not otherwise provided for" in that instrument, was granted to every white male citizen of the United States, of the age of twenty-one years and upwards, who had resided in the state one year immediately preceding such election, and he was entitled to vote in the county of his residence. Constitution 1816, Art. 6, §1. Certain elections were "otherwise provided for" in that Constitution, as in the present, and this was particularly true of the military elections in which the suffrage qualifications differed materially from those fixed in the general grant. Constitution 1816, Art. 7, §§3, 4, 5. This fact has a bearing on the questions now in issue as indicating that the clause "otherwise provided for by this Constitution," which was readopted without change in 1851, has reference only to the *constitutional* definition of a special electorate which should participate in certain elections. The Constitution of 1816 also provided that "town and township officers shall be appointed in such manner as shall be directed by law" (*People, ex rel. v. English,*

supra), and authorized the general assembly to determine in what "manner" offices of its own creation should be filled. Constitution 1816, Art. 4, §8, and Art. 11, §15. No provision was made, however, for the creation of towns and cities generally and it soon became the practice, whenever it was desired to establish a municipal corporation, to petition the legislature for the passage of a special law which should contain the charter grant. These laws regularly assumed to fix the qualifications for municipal suffrage and were not uniform in that particular, as local necessities usually served as the guide in determining such qualifications. During the formative period of that policy, at least, communication between the various towns and cities of the state was difficult and limited, and there existed, in some degree, a condition of social and political isolation which tended to prevent a recognition of the fact that the municipal unit is a governmental agency of the state as well as an organization for the control of local affairs. In view of this condition, it may be argued with reason that, in the first instance, the practice of providing local qualifications for municipal suffrage developed out of the existing relation between the town or city and the state, rather than from a belief on the part of the general assembly that it had full authority to provide the electorate for the choice of all officers not mentioned in the Constitution. It must be conceded, however, that the practice continued until the adoption of the present Constitution in 1851, and the assertion is now made that in framing that instrument without making different provision for determining the municipal electorate, the people of the state impliedly accepted the interpretation by the legislature of its own authority in that particular, but in view of later developments this circumstance becomes of no importance.

Article 2, §2, of the present Constitution, as originally adopted, conferred the general right of suffrage on "every white male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided

in the State during the six months" immediately preceding an election, and on white males of foreign birth, possessed of the same qualifications, who had resided in the United States for one year and had declared their intention to become citizens under the naturalization laws. In 1852 the general assembly passed an act which provided, in part, that "in all municipal elections in this State, no other or different qualifications shall be required of voters, than that which shall entitle them to vote at any township, county or State election, *except that their residence shall be in the ward of the city or town where such election shall be holden.*" Acts 1852 p. 124. It is apparent, from the portion of the law which we have italicized, that the general assembly still assumed to fix the qualifications for municipal suffrage, but the clause in question becomes important later in establishing a sovereign disapproval of that practice. This court knows, as a matter of public history (*Smith v. Pedigo* [1896], 145 Ind. 361, 418, 33 N. E. 777, 44 N. E. 363, 19 L. R. A. 433, 32 L. R. A. 838), that one of the principal reasons for the amendment of the Constitution in 1881 is to be found in the extent to which fraudulent and illegal voting had, for some years, marked the holding of political elections in city and state alike. (Governor's Message, January 4, 1877). Various proposals were made to amend the residential qualifications as set forth in the Constitution and in 1877 a resolution was introduced in the senate which provided for residence in the township or precinct for sixty days immediately preceding an election. Prior to its passage, however, that resolution was amended, in part, *by adding an alternative provision for residence in the ward*, thus adopting the very requirement which was exacted of voters in municipal elections by the general assembly of 1852. The ward exists only as a political subdivision of the city or town (§§8641, 8984 Burns 1914, Acts 1905 p. 219, Standard Dictionary) and there can be no doubt that when the people of this state, in 1881, amended Art. 2, §2, of their

Constitution in accordance with the resolution of 1877, they intended that its requirements should apply in determining the qualifications of voters at all state, county, township and municipal elections of a political nature. Even though it be admitted that prior to the amendment of 1881, municipal elections were of a class "*otherwise provided for* by this Constitution," the effect of that amendment was to bring such elections within the class "*not otherwise provided for*" by that instrument and to make the constitutional qualifications applicable in determining the electorate. The evil which the amendment sought to check was as pronounced in city elections as in those for the choice of state officers and it is inconceivable that the people should have sought to remedy the condition in one instance and not in the other, or that they should have adopted the legislative provision of 1852 concerning municipal elections, unless it was their intention to make the constitutional requirements applicable in elections of that class.

If we concede, then, that in passing the various local charter laws prior to the adoption of our present Constitution and in enacting the general statute of

7. 1852, the legislature assumed that the suffrage qualifications then contained in Art. 2, §2, and in the similar provision of the Constitution of 1816, were not intended to apply in municipal elections, it is equally evident that in adopting the amendment of 1881 the people plainly announced that this assumption had been erroneous and should not continue, and from that time, until in the present instance, the general assembly has made no effort to prescribe or change the qualifications for municipal suffrage. It is true that §230 of the Cities and Towns Act of 1905 provides that "In all municipal elections, no other qualifications shall be required of any voter than such as are made necessary in general elections under the constitution and laws of the state" (Acts 1905 p. 219, §8884 Burns 1914), but that provision is no more indicative of a legislative belief that other require-

ments might be exacted than is the fact that in 1881 the general assembly passed a general-election law prescribing for all voters certain qualifications which are identical with those set forth in the Constitution. §6876 Burns 1914, Acts 1881 (s.s.) 482. Furthermore, the "laws of the State" which are referred to in the act of 1905, *supra*, consist (1) of a restatement, in substance, of the constitutional provisions on the question of suffrage and (2) of a statute concerning disfranchisement which was passed pursuant to express constitutional direction. §§6876-6879 Burns 1914.

The principle of legislative interpretation, in order to be properly applicable to the issues in this case, must have been based on acts passed since 1881 which would indicate a belief on the part of the general assembly that the suffrage provisions of the Constitution, as amended in that year, were not intended to apply in city elections. The basis for such a contention is lacking and our determination of the present inquiry must rest, therefore, on the conclusions heretofore reached, (1) that Art. 2, §2, of the Constitution, in itself, defines the electorate which shall participate in every state, county, township and local election of political officers, and (2) that the general assembly has no authority to extend the right of franchise to persons not included within that definition.

Applying these general principles to the facts in issue, we must sustain the decision of the trial court in holding that the Partial Suffrage Act of 1917 is in-

8. valid in so far as it purports to grant to women of the city of Indianapolis the right to participate in the election of a mayor, a city judge, a
9. city clerk, and the members of the common council. The remaining inquiry is to determine their right to participate in the election of members of the board of school commissioners. The Suffrage Act undertakes, in part, to confer on women the right to vote "for all school officers elected by the people," but that grant appears only as an incident in what is plainly an exer-

cise of an assumed power to extend the right of political franchise. No suggestion is made, either in the title of the act or in its provisions as a whole, which would indicate that the general assembly was there undertaking to exercise its authority over the administration of the public school system, and, under such circumstances, the case is governed by the rule that where valid and invalid provisions of an enactment are so connected one with the other that it is apparent that the legislature would not have passed the act, except as a whole, the entire statute must fall. *State, ex rel. v. Fox* (1901), 158 Ind. 126, 130, 63 N. E. 19, 56 L. R. A. 893; *State, ex rel. v. Blend* (1890), 121 Ind. 514, 521, 23 N. E. 511, 16 Am. St. 411; *Griffin v. State, ex rel.* (1889), 119 Ind. 520, 22 N. E. 7; 6 R. C. L. 123, §122.

This conclusion requires a full affirmance of the judgment of the Marion Superior Court and it is so ordered.

Myers, J., concurs; Lairy, J., concurs in the conclusion reached; Harvey, J., dissents.

CONCURRING OPINION.

LAIRY, J.—This appeal calls in question the validity of an act of the general assembly of this state approved February 28, 1917, which purports to extend to women possessing certain qualifications as to age, citizenship and residence, the right to vote at certain elections and for certain officers therein specified, including the right to vote at elections to be held in cities and towns for the election of municipal officers. The validity of the act is challenged, in so far as it purports to grant to women the right to vote for municipal officers of cities and towns, on the ground that it is in conflict with Art. 2, §2, of our state Constitution.

The decision of the question thus presented involves both a construction and an application of this section of the Constitution. Appellee asserts that the qualifications of voters as fixed therein should be held to be both inclusive and exclusive—including all persons possessing

the qualifications named and excluding all others. It is asserted that it restricts the legislature from imposing additional qualifications so as to deny the right of franchise to any one possessing the qualifications named in the section, and that it also restricts the legislature from extending the right of franchise so as to include persons not possessing all of the qualifications specified therein. Appellee also asserts that the qualifications of voters as fixed by this section apply to all elections by the people including the elections of municipal officers in cities and towns.

On the other hand, appellant admits that the section in question should be construed as guaranteeing the right of suffrage to those possessing the qualifications designated therein and inhibiting the legislature from excluding any such persons from the exercise of that right, and they find no fault with the decisions of this court which have so construed it. *Morris v. Powell* (1890), 125 Ind. 281, 25 N. E. 221, 9 L. R. A. 326; *Brewer v. McClelland* (1895), 144 Ind. 423, 32 N. E. 299, 17 L. R. A. 845; *Quinn v. State* (1871), 35 Ind. 485, 9 Am. Rep. 754. They assert, however, that the section does not by its terms expressly exclude all persons not possessing the prescribed qualifications, and that it should not be construed as inhibiting the legislature from extending the privilege to others who lack some of the qualifications prescribed in the Constitution. They further assert that the qualifications of electors as stated therein do not apply to voters at municipal elections in cities and towns.

In regard to the construction to be placed on Art. 2, §2, of the Constitution, I concur in the opinion of Spencer, C. J., in so far as it sustains the position of appellee, as hereinbefore stated in this opinion. "In construing a constitution, resort may be had to the well recognized rule of construction contained in the maxim, *expressio unius est exclusio alterius*." 6 R. C. L. 49; *Page v. Allen* (1868), 58 Pa. St. 338, 98 Am. Dec. 272; *Ex Parte Vallandigham* (1863), 1 Wall. 243, 17 L. Ed. 589.

In the case last cited the Supreme Court of the United States placed a construction on that part of Art. 3, §2, of the federal Constitution which confers original jurisdiction on that court and which reads as follows: "In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction." It was held that the affirmative words, declaring in what cases the Supreme Court should have jurisdiction, must be construed negatively as to all other cases. Applying the same principle of construction here, it must be held that the provision of the section under consideration to the effect that citizens of the United States possessing the qualifications designated in the section shall be entitled to vote at all elections not otherwise provided for, must be construed negatively as to all persons not possessing those qualifications. So construed, this section inhibits the legislature from granting to women, or to any other class of citizens not possessing the qualifications stated therein, the right to vote at any election to which the section applies.

Appellants take the position that, as the Constitution does not in express words inhibit the legislature from extending the right of suffrage to persons not possessing the qualifications prescribed by Art. 2, §2, the legislature may extend the privilege in the exercise of the general legislative power granted to it by the Constitution. They cite *Beauchamp v. State* (1842), 6 Blackf. 299. Speaking of the general grant of legislative power by the Constitution, the court said: "This is not a grant of special, limited, and enumerated powers, implying a negative of all others, as is the case with the Constitution of the United States. The legislative authority of this state is the right to exercise supreme and sovereign power, subject to no restrictions except those imposed by our own Constitution, by the federal Constitution, and by the laws and treaties made under it." The writer is in full accord with the doctrine as announced in the foregoing

quotation. State constitutions are to be regarded as a restraint of legislative power rather than a grant, and a statute must be upheld unless it conflicts with some constitutional provision which restrains or restricts the legislature from enacting it. *State v. Patterson* (1913), 181 Ind. 660, 105 N. E. 228; *McComas v. Krug* (1882), 81 Ind. 327, 42 Am. Rep. 135.

It is not necessary, however, that such restriction should be stated in the Constitution in express words. It is sufficient if the restriction arises by necessary implication from a proper construction of the instrument or of any of its provisions. Article 2, §2, of the Constitution when construed as heretofore indicated, has the effect of restraining the legislature from extending to women the right to vote at municipal elections in cities and towns, unless appellants are correct in saying that the qualifications of voters prescribed in this section do not apply to voters at municipal elections, for the reason that such qualifications are applicable under the wording of the section only to elections not otherwise provided for in the Constitution, whereas it is claimed that municipal elections do not belong to this class but do belong to a class otherwise provided for in the Constitution, at which class of elections no special qualifications for voters are provided. As to such elections it is claimed that the legislature has the power to prescribe qualifications for voters regardless of those qualifications contained in Art. 2, §2, of the Constitution.

In support of the proposition just stated the attention of the court is called to the fact that, during the period of time that the state government was conducted under the Constitution of 1816 the legislature assumed to designate the qualifications of legal voters in towns and that the qualifications thus prescribed differed from the qualifications of voters as designated by Art. 6, §1, of our first Constitution. Within that period numerous towns were incorporated by special acts of the legislature, which acts fixed the qualifications of voters in such towns differing

in most instances from the qualifications of voters as fixed in the then existing constitution. Acts 1820 p. 42, Town of Charlestown; Acts 1828 p. 30, §2, Town of Corydon; Local Laws 1836 p. 32, §2, Town of Vincennes.

Section 1, Art. 6, of the Constitution of 1816 was as follows: "In all elections, not otherwise provided for by this constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, who has resided in the state one year immediately preceding such election, shall be entitled to vote in the county where he resides; except such as shall be enlisted in the army of the United States or their allies." It will be observed that the only qualifications required of a person in order to fit him to exercise the right of franchise were that he should be a male person, that he should be white, that he should be a citizen of the United States, and that he should be of the age of twenty-one years or upward, and that the only condition prerequisite to entitle such a person to vote in the county of his residence was that he must have resided in the state for one year immediately preceding the election. No condition was imposed by the section in respect to residence for any definite time within any territory of less extent than the state, and the territory within which the right to vote might be exercised was not limited to any extent less than the county in which the person offering to vote resided. In this connection a distinction is recognized by the writer between qualifications which refer to qualities inherent in the individuality of the voter regarded as fitting him to the exercise of such right, and conditions prerequisite to the exercise of the right to vote in a particular place or locality; but as no such distinction has been observed by courts generally in this respect and as residence has been universally regarded as a qualification, it will be so treated in the discussion which follows.

It seems clear that qualifications thus fixed by the Constitution could not, with reason, be held to apply to the voters of towns organized within any county of the state.

If no other qualifications for voters in towns could have been provided by the legislature, every white male citizen of the United States of the age of twenty-one years and upward residing within the county could have qualified as a voter at every election of every town within the county, if he had resided in the state for one year immediately preceding such election. It thus appearing that the provisions of Art. 6, §1, with reference to the qualifications of voters could not, with consistency, be held to apply to town elections, the legislature prescribed a residence within the limits of the town for some fixed period as a prerequisite of the right to vote at such an election and also fixed such other qualifications as it deemed proper and expedient. The conclusion necessarily follows that the section of the 1816 Constitution under consideration was not intended as a limitation of the power of the legislature to fix the qualifications of voters at town elections held for municipal purposes. It could not, with reason, be held to have such an effect and it was never given such an effect by any construction placed upon it either by the legislature or the courts.

By Art. 6, §1, of the Constitution of 1816, two classes of elections were recognized: First, elections not otherwise provided for in the Constitution; and, second, elections which were otherwise provided for in the Constitution. The qualifications of voters at all elections falling within the first class were fixed by this section of the Constitution, but the qualifications of voters at elections falling within the second class were not so specified and were therefore left to the legislature. In assuming to fix the qualifications of voters in town elections the legislature placed a construction on the Constitution to the effect that such elections were otherwise provided for by the Constitution and therefore fell within the second class mentioned. In searching the Constitution for some provision upon which such a construction could be based, we find Art. 11, §15, reading as follows: "All town and township officers shall be appointed in such manner as

is provided by law," and at the end of §8, Art. 4, the former part of which provides that certain officers shall be appointed by the Governor, we find this provision: "And all offices which may be created by the general assembly shall be filled in such manner as may be directed by law." If the election of officers for towns were otherwise provided for in the Constitution of 1816 the authority for such a claim must be found in one or the other or in both of the provisions quoted, and it must be assumed that the legislature, in providing for the election of such officers and in fixing the qualifications of voters at such elections, acted under the authority therein contained with the acquiescence of the people during the entire period in which the state government was administered under the Constitution of 1816.

In 1851 the people of the state adopted a new Constitution. Article 2, §2, of this Constitution fixing the qualifications of voters was as follows: "In all elections not otherwise provided for in this Constitution every white male citizen of the United States of the age of twenty-one years and upwards, who shall have resided in the state during the six months immediately preceding such election; and every white male of foreign birth of the age of twenty-one years and upwards who shall have resided in the United States one year, and shall have resided in this state during the six months immediately preceding such election, and shall have declared his intention to become a citizen of the United States, conformably to the laws on the subject of naturalization, shall be entitled to vote in the township or precinct where he may reside."

The qualifications of voters as fixed by the Constitution of 1816 were changed by this section of the new Constitution. By the old Constitution only white male citizens of the United States were permitted to exercise the franchise, but by this section the right of franchise was extended so as to include white males of foreign birth who had declared their intention to become citi-

zens of the United States in conformity with the laws on the subject of naturalization and who possessed the other qualifications fixed by this section. The requirement as to residence within the state was shortened from one year as provided by the first Constitution to six months as provided by this section, but no definite period of residence within any municipal subdivision of the state was required as a prerequisite to the right to vote. Under the Constitution of 1816, a qualified voter might exercise his right of franchise anywhere within the county of his residence, but by this section his right to vote was limited to the township or precinct in which he resided.

This section, like the section of the Constitution of 1816 on the same subject, recognized two classes of elections: First, elections not otherwise provided for in the Constitution, the voters at which were required to possess the qualifications specified therein; and, second, elections otherwise provided for in the Constitution. The voters at elections of the second class were not required to possess the qualifications fixed by this section for the reason that those qualifications were expressly limited to voters at "all elections not otherwise provided for in this constitution." Section 15 of Art. 11, before quoted, providing for the appointment of officers of townships and towns, and the part of §8, Art. 4, also quoted, with reference to the manner in which offices created by the legislature should be filled, were omitted from the new Constitution, and the following provisions in respect to the selection of officers were embodied therein: Such other county and township officers as may be necessary shall be elected or appointed in such manner as may be prescribed by law. Art. 6, §3. All officers, whose appointment is not otherwise provided for in this Constitution, shall be chosen in such manner as now is or hereafter may be prescribed by law. Art. 15, §1.

As before stated, the provisions of Art. 2, §2, *supra*, permitted an elector possessing the qualifications therein designated to vote anywhere within the township or pre-

cinct in which he resided. If elections held in towns for municipal purposes belonged to the first class of elections recognized by this section as hereinbefore designated, then such an elector living any place in a township or precinct which contained an incorporated town would be qualified to vote at all elections held within such town for municipal purposes, even though he did not live in such town, but lived in a remote part of the township.

After the adoption of the Constitution of 1851, the legislature by an act approved March 10, 1852, provided that: "In all municipal elections in this State, no other or different qualifications shall be required of voters, than that which shall entitle them to vote at any township, county or state election, except that their residence shall be in the ward of the city or town where such election shall be holden." Acts 1852 p. 124. The effect of this act was to produce uniformity in the qualifications of voters in all cities and towns. The qualifications adopted for the voters of such towns were the same as those prescribed by Art. 2, §2, of the Constitution except the requirement of residence in the ward of the town in which he offered to vote. The exception was intended to exclude from participation in municipal elections all qualified voters residing outside of the corporate limits of the city or town but within the township or precinct in which it was located, who, in the absence of such an exception would have been entitled to vote at any election in the township or precinct.

It thus appears that in fixing the qualifications of voters in cities and towns the legislature imposed a residence qualification not required to qualify a voter under the provisions of Art. 2, §2, of the Constitution of 1851. By so doing the legislature placed a construction on the section of the new Constitution hereinbefore set out to the effect that city and town elections fell within the class of elections otherwise provided for in the Constitution, as before indicated in this opinion and that the qualifications for voters as fixed in Art. 2, §2, did not apply

to voters at such elections. Upon this theory the legislature provided for the election of officers of such municipalities under the provisions of Art. 15, §1, of that Constitution by providing an electorate for such officers and fixing the qualifications of the voters. The constitutionality of this statute was never brought before the highest court of this state for determination, thus indicating an acquiescence on the part of the people generally in the construction thus placed on the Constitution by the legislature.

No further change was made in our Constitution on the subject of the qualifications of voters until the adoption in 1881 of amended §2 of Art. 2, which was first proposed by the legislature of 1877. From the time of the adoption of the Constitution of 1851 to the time this amendment was proposed, the people of the state had manifested a desire as expressed through their legislatures of conforming the qualification of voters in city and town elections as nearly as practical to the qualifications prescribed for voters in Art. 2, §2, of that instrument. As a result, the qualifications of voters at municipal elections in cities and towns were identical with the qualifications prescribed by that section except that voters at such municipal elections were required to live in the ward in which they offered to vote. It required only a slight change of the qualifications of voters as fixed by Art. 2, §2, of the Constitution of 1851 to make them identical with the qualifications of voters at city and town elections. It required only that the section in question be amended by adding the requirement that the voter should reside in the ward in which he offered to vote. The addition of this requirement to the qualifications of voters as then fixed by the Constitution would make them conform in all respects to the wishes of the people in regard to the qualifications of voters at municipal elections in cities and towns as expressed by their representatives in the general assembly by legislative enactments on the subject. In order to accomplish this

result, the legislature which proposed the amendment under consideration embodied therein a requirement that the voter should reside in the ward or precinct for thirty days immediately preceding the election. The ward exists only as a political subdivision of a city or town, and the word could have been employed in this amendment for no other purpose than to make the qualifications of voters, as specified therein, applicable in all respects to municipal elections, and to bring those elections within the class to which such qualifications apply. There can be no doubt that other reasons existed for the amendment of this section, one of which was the prevention of illegal and fraudulent voting, but this would have been as effectually restrained without requiring a residence in a ward. (Governor's Message, January 4, 1877.) The resolution proposing the amendment as introduced in the senate required only a residence in the township or precinct. If it had been adopted and approved in this form it would have had the effect of requiring voters to reside in a territory of small limits for a fixed period immediately preceding an election and in this way it would have aided in the detection and prevention of illegal and fraudulent voting in accordance with the recommendations of the governor as contained in his message, but it would not have disqualified a voter residing outside the corporate limits of a city or town from voting at a municipal election of a city or town located wholly or partially within the precinct of his residence. This result could be accomplished only by a requirement that the voter should live in a ward of the town, and to accomplish this end the resolution was amended so as to require a residence in the ward. By the adoption of this amendment, the people expressed their will to the effect that the qualifications of voters as fixed therein should apply to elections held in cities and towns for municipal purposes, thus crystallizing and perpetuating their will in this respect in the supreme law of the state and thereby placing it beyond the reach of the legislature

until such time as the sovereign people may see fit to express a different will by adopting a new Constitution or by amending the one now in force.

In reaching this conclusion, consideration has been given to the constitutional and legislative history of the state on the subject. In the light of such history leading up to the proposal and adoption of the amendment under consideration, and in view of the conditions existing at the time and the circumstances attendant upon the proposal and adoption of that amendment, I am convinced beyond a reasonable doubt that one of its purposes was to make the qualifications of voters as fixed therein apply to municipal elections. To my mind, an express declaration therein to the effect that the qualifications of voters as fixed in the amendment should apply to voters at municipal elections in cities and towns could not have been more certainly indicative of the will of the people in this regard than was the additional requirement of residence in the ward inserted with the unequivocal purpose and intention of making the qualifications so prescribed apply to voters at such municipal elections.

Having no reasonable doubt that the amendment of §2 of Art. 2 of the Constitution has the effect heretofore indicated, I am prepared to hold that, in so far as the act of the legislature here under consideration attempts to confer on women the right to vote for municipal officers in cities and towns, the same is in conflict with that section of the Constitution as amended in 1881. I therefore concur in the conclusion reached in the opinion by Spencer, C. J., for the reasons herein stated.

DISSENTING OPINION.

HARVEY, J.—I agree with my associate judges that the trial court had jurisdiction of this cause. I cannot agree, however, that the general assembly lacked power to pass the act of 1917, granting to women the right of suffrage at town and city elections.

During the sixty-five years, between the adoption, in

1816, of the first Indiana Constitution, and 1881, the general assembly, by grant of the people, expressed in the Constitution of 1816 and that of 1851, had and exercised the power to prescribe who should be entitled to vote at municipal elections—at elections in towns during the early years of the state's existence—there being then no cities, and in towns and cities later. The general assembly still has that power, unless the amendment of the Constitution in 1881 withdrew that power. The foregoing statements, in my opinion, are not contrary to a fair inference to be drawn from the prevailing opinion in this case, and are in accord on this proposition with the concurring opinion.

The amendment of 1881 did not, in my opinion, deprive the general assembly of that power, and, therefore, the general assembly in 1917, had power, granted by the people through the Constitution, to pass the act in question. Whether the general assembly should or should not prescribe any such qualifications for voters at town and city elections is for the exclusive determination of the assembly, if authority so to do exists in the assembly. Thus the question for determination is not whether it is right, or good policy, for women to vote at town and city elections, but is simply whether the legislature has power to provide that women may vote.

In solving this law question, we find that the people, in the Constitution of 1816, created two classes of elections; and it is sufficient, and directly to the point in this case, to describe these two classes as follows: First, elections at which those may vote who possess qualifications to be prescribed *by the legislature*, under power granted to the legislature by the people in the Constitution. Second, elections at which those may vote who possess qualifications prescribed *in the Constitution* itself.

For convenience and brevity and for the purposes only of this case, the first class will hereinafter be called “town” or “town and city” elections; and the second class will be termed state elections; the latter are sometimes

also designated as "general elections." These designations are not to be taken as exactly correct, as each class includes other elections, but these designations serve well the purpose of distinction herein to be made between the two classes.

To the first class belong town and city elections. By the Constitution, town and city elections are thus divorced from the qualifications prescribed in the Constitution for voters at state elections; and divorced from all rules and decisions which have a bearing on the question whether the general assembly can add to or take from the qualifications named in the Constitution for state elections.

The people having specifically provided in the Constitution how certain officers shall be selected, including in this class officers of towns and townships, the people further say in the Constitution that at all elections "*not*" thus "*otherwise provided for*," the voters shall be males, twenty-one years of age, who have resided within certain geographical areas for a designated time.

The language of the Constitution of 1816 on this subject was, Art. 11, §15: "All town and township officers shall be appointed in such manner as shall be directed by law." Art. 6, §1: "In all elections, not otherwise provided for by this Constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, who has resided in this state one year immediately preceding such election, shall be entitled to vote in the county where he resides." It is thus made clear by the Constitution itself that the selection of town officers is "otherwise provided" for in the Constitution, because the Constitution says that they "shall be appointed in such manner as directed by law," which, of course, means, as shall be directed by the legislature; and inasmuch as the selection of town officers is thus "otherwise provided for," elections of town officers are not in the class of elections not otherwise provided for. An expression of this thought in another form may aid: The

Constitution provides that at all elections voters shall have the certain, named and described qualifications above mentioned. The Constitution also, however, expressly excepts from the elections above named—that is, from “all” elections—certain elections “otherwise provided for,” at which voters need not have the certain, named qualifications applying to “all” other elections, and thus the Constitution is to be construed as if it read,—except as otherwise herein provided for, electors shall possess the certain, named and described qualifications; and as town elections are otherwise provided for, they are within the exception, and to them the designated qualifications do not apply.

Obvious reasons existed then, and exist now, for each and every provision in the Constitution as to the agency for the selection of officers, and a very obvious and special reason existed for the retention by the people of the right to provide by legislation for self-government of towns. A reason for not fixing in the Constitution the qualifications of voters at town and city elections is that an effort to amend the Constitution consumes much time, and is fraught with many difficulties; whereas the people can, through the legislature, more easily and readily express their desires, and more frequently change that which is found inapt or undesirable; and by delegating to the legislature authority to say who shall vote at town elections, the people recognized and asserted, to that extent, a principle of local self-government, which has existed and been fostered by the people since long prior to the organization of the state. They retained near at hand this means of changing the electorate, as experience and development might dictate.

Speaking generally of the subject of local self-government, Judge Elliott, whose opinions have always commanded the highest respect and consideration, says in *State, ex rel. v. Denny, Mayor* (1889), 118 Ind. 382, 401, 21 N. E. 252, 4 L. R. A. 79: “It needed no constitutional declaration to invest the people with this power, but it

does require a constitutional provision to take it from them in whole or *in part*. This inherent power includes the right of the people to choose their rulers. An essential part of this inherent power, as it has been asserted and exercised for many years, is the right of the electors of a locality to choose their own immediate officers. In my judgment our Constitution does not take away this right, but leaves it in the people, undiminished and undisturbed. There it has resided for ages, and there it is to reside until the people shall, in due course, change their organic law." Judge Elliott, in the decision above cited, was distinguishing between appointment of city officers by the general assembly and the election thereof by the people; but this distinction serves to emphasize the fact that the people have jealously guarded this right, and that such was their purpose in retaining within easy control the matter of naming the electorate for towns. In this well-expressed principle of government we find the reason why the people, in the Constitution of 1816, reserved to themselves the right to say, from time to time, by and through their representatives in the legislature, who should vote at town and township elections and why they did not fix, in a large measure, unalterably, such qualifications in the Constitution.

A construction consistent with the idea that no qualifications for voters at town elections were fixed in the Constitution, and that the fixing thereof was committed to the general assembly, was at once placed, by the legislature, upon the Constitution of 1816. The legislature, acting on the theory that it was authorized so to do by Art. 11, §15, of the Constitution, to wit: "All town and township officers shall be appointed in such manner as may be directed by law," passed in 1817 a general law, as follows: "Sec. 1. Be it enacted by the General Assembly of the State of Indiana, That hereafter whenever the inhabitants of any town in this state wish to become incorporated, for the better regulation of their internal police, it shall be lawful for the qualified voters of such

town, who shall have resided six months therein, and *pursued any trade or occupation* during such time, being also residents, or who shall be the *owner of any freehold property in said town,*" to assemble and vote whether they shall be incorporated.

"Sec. 3. Whenever the qualified voters of any town shall have decided in the manner aforesaid, that they wish to become an incorporated body, they may, on the next succeeding Monday, and annually thereafter, on the same day, choose by ballot, five freeholders as trustees." Acts 1818 p. 373.

This law adds several qualifications not required by the Constitution, and throws a light which has not been extinguished to this day, though sometimes dimmed, revealing the thought then in the minds of the people, that the constitutional qualifications did not define who should vote at town elections "for the better regulation of their internal police." The term "internal police," as here used, is defined as "The whole system of internal government of a city or town." New Standard Dictionary.

In addition to the above general act for the incorporation of towns, the legislature also, during the entire existence of the Constitution of 1816, authorized the incorporation of many towns by special act, or charter, and in each special charter, the legislature described and defined who should vote at elections of the town. The qualifications of voters thus described differ greatly from those named and fixed in the Constitution for other elections, and differ greatly as between the towns themselves; for instance:

(1820) Charlestown—"Every person resident in the corporation aforesaid, *having a legal or equitable title to real property* therein, shall be entitled to vote for trustees." Acts 1820 p. 42.

(1823) Lawrenceburgh—"the freemen of the town * * *." Acts 1823 p. 20.

(1828) Corydon—"Every person resident in the corporation, of the age of twenty-one years and up-

wards, and every person who is a qualified voter and resident of the county, having a *legal or equitable title to property therein* shall be entitled to vote." Acts 1828 p. 30.

(1832) New Albany—"Each white male inhabitant of said town, *sane, and not a pauper*, being a citizen of the United States, and twenty-one years of age and upwards, who shall have the qualifications of a voter for state officers, and shall have resided within the bounds of the corporation of said town, six months next preceding such election, shall be entitled to vote." Acts 1832 p. 136.

(1836) Vincennes—"Each white male citizen of said Borough of twenty-one years and upwards, being either freeholders or householders in said borough." Local Laws 1836 p. 32.

(1836) New Albany—"Every qualified elector of this state, *not a pauper*, who shall have resided in the town for six months, next preceding election shall be entitled to vote." Local Laws 1836 p. 76.

(1838) New Boston—Three months' residence. Local Laws 1838 p. 53.

(1838) La Porte—"All free white male citizens of this State, of the age of twenty-one years and upwards, residing within the limits of this town, assessed for and having paid a town tax." Local Laws 1838 p. 59.

(1838) Greensboro—Qualifications to vote for member of legislature. "Provided, however, that this shall not be construed as to prevent any citizen freeholder from voting at any election after he shall have paid a public corporation tax." Local Laws 1838 p. 85.

(1846) Evansville—"Every free white male citizen of the age of twenty-one years, who has resided in the State one year, and in said city six months, and in the *ward* in which he offers his vote one month

next preceding such election, shall be entitled to vote." Local Laws 1847 pp. 4, 5.

(1847) Indianapolis—"No person shall be qualified to vote for mayor and councilman who has not resided for the last six months preceding the election in the city, and *if not a householder*, who has not resided for the last twenty days preceding the election, in the *ward* in which he may offer his vote, and who shall not be a citizen of the State of Indiana." §3, Local Laws 1847 p. 57.

Many others might be quoted. This long-continued and consistent construction of the Constitution to the effect that the people thereby delegated to the legislature power to name the qualifications of voters at town elections, was not at any time, or in any manner, questioned by the people, by any branch of the state government, or by any litigation to which my attention has been called, or which I have found, and it thus has the force of positive law. *Hovey, Governor, v. State, ex rel.* (1889), 119 Ind. 386, 388, 21 N. E. 890.

I am not unmindful of the fact that it is argued herein that in placing in the Constitution the provision: "All town and township officers shall be *appointed* in such *manner* as shall be directed by law," the people used the word "appointed" in its narrow sense, excluding elections, and it is argued that even though the word "appointed" be broad enough to include elections, the people used the word "manner" as referring to the mode, or system of conducting elections, rather than to the agency making the selection. Decisions rendered in other states have been cited in this action in support of such argument. Such decisions, and the argument, are, in my opinion, of no weight, as against the construction of such words made from 1816 to 1851 by the people of Indiana, and by the general assembly of Indiana, to the effect that the word "appointed" is broad enough to include "election," and that the word "manner" refers to agency of choice, and that the general assembly had the power to

say whether such town officers should be appointed and, if so, by whom, or that they should be elected and, if elected, by whom. The people of the state were justified, and this court is justified in construing the word "appoint" to be broad enough to cover election, since it was used in this connection by the Supreme Court of the United States in *McPherson v. Blacker* (1892), 146 U. S. 1, 27, 13 Sup. Ct. 3, 36 L. Ed. 869.

We find a further construction to the same effect in the Constitution of 1851. By the new Constitution the long-continued construction of the old was confirmed and settled as correct by the express declaration of the people, as follows:

Art. 15, §1: "All officers whose appointment is not otherwise provided for in this Constitution shall be *chosen* in such manner *as now is*, or as hereafter may be prescribed by law," and by the further declaration:

(Constitution, Schedule §4) "All acts of incorporation for municipal purposes shall *continue in force* under this Constitution until such time as the *General Assembly* shall, in its discretion, modify or repeal the same." In this connection, it should be remembered that each of said acts of town incorporation then named the qualification of voters in such corporation. The continued propriety of local self-government was thus again recognized and asserted in 1851, and more positively asserted than in 1816. The Constitution of 1816 merely granted authority to the assembly to provide by law for elections in "towns and townships;" that of 1851, in the above quoted language, approved and continued in force the specific acts done by virtue of such authority, and continued the authority. The people in the Constitution of 1851 also preserved the distinction between the two classes of election herein noted; and did so in the same words used in the Constitution of 1816, to wit: "In all elections *not otherwise provided for by this Constitution*, every white male citizen * * *" and this distinction is in the Constitution today.

It had, however, been found by the people that the great variety of qualifications of voters prescribed by law for each town caused confusion, and that uniformity was more desirable; therefore, the legislature, acting within the power granted by the Constitution of 1851, at its first session after the adoption of the Constitution of 1851, enacted that "in all *municipal elections* under *town and city* charters in this State, no other qualifications shall be hereafter required of any voter than such as is made necessary under the constitution of the State, *except* that the voter shall reside in the ward or district where he may offer to vote." 1 R. S. 1852 p. 373. At that time, 1852, the Constitution required for elections not otherwise provided for, i. e., state elections, as herein termed, only that a person should reside in the state six months to be entitled to vote in his township or precinct. The legislature did not deem this sufficient for protection of the ballot at town and city elections, and again exercised its power to provide for local self-government by requiring at town and city elections the voter should reside in a ward or district of the municipality. This requirement of residence in a ward was provided by the legislature for town and city elections because, in the absence of such a restriction, any person who had resided in the state six months, and who had just moved into the township, or precinct—precincts frequently covering the whole township—might, so far as the constitutional restrictions were concerned, vote at an election in any town located within the township or precinct, although he did not reside in the town.

The general assembly, at several later sessions before 1881, repeatedly asserted its power to designate electors for city and town elections. At some sessions the assembly deemed the qualifications required by the Constitution at state elections to be sufficient, and at other sessions deemed additional qualifications proper and necessary, as, for instance, in 1867 (Acts 1867 p. 113) the general assembly required a residence of *twenty* days in

the city or ward to entitle one to vote at city or town elections. This requirement was not in the Constitution. Although many sections of the town and city election law of 1867, last above mentioned, were repealed in 1869, the above requirement of twenty days' residence was by the legislature continued in force. This act relating to residence in a ward at municipal elections did not answer another complaint, however, which was prevalent at the time as to state elections, which complaint grew out of the fact that voters at state elections were not restricted by any smaller territorial area than the township or precinct, and this furnished opportunity for floating voters to repeat at state elections. This was the situation ten years later when Governor Hendricks in his message to the assembly of 1877 recommended that voting precincts be made so numerous and so small that all who offered to vote might be known, and that a reasonable period of residence in the precinct be prescribed, and in this message a residence of sixty days in the precinct was suggested. At that time precincts applicable to state elections were large, frequently as large as townships, and no period of residence therein was required. At that time precincts applicable to town and city elections were as small as wards, or smaller, and a period of residence therein was required. It is a fair inference, from this and other facts to be noted herein, that the Governor referred to state elections rather than town and city elections. Because of this recommendation of the Governor, the general assembly proposed, in 1877, an amendment to the Constitution, to be submitted to the people, adding to the qualifications of voters therein prescribed that voters should reside in the township sixty days and in the *ward*, or precinct, thirty days, and thus be entitled to vote in the precinct. This resolution was also passed by the session of 1879, was ratified by the people and became effective as an amendment in 1881. Prior to this amendment the word "ward" had not appeared in the Constitution. It is argued that as a

“ward” is necessarily a town and city subdivision, the use of this word, or the mention of the subdivision, in the Constitution, when considered with the desire to so amend the Constitution as to avoid abuses of the ballot, imports an intention on the part of the people to bring town and city elections into the class of elections, “not otherwise provided for” in the Constitution; or, to state the matter in another form, imports an intention to thus destroy and annul the provision otherwise made in the Constitution for town and city elections, and thus take from the general assembly a power it had possessed and exercised for sixty-five years to provide for local self-government. An amendment of the town and city election laws would have cured any defect therein, but none of the kind existed. An amendment of the Constitution was necessary to cure a defect as to elections “not otherwise provided for,”—state elections. I do not find in the message of the Governor any suggestion that the right of local self-government, preserved for so many years in the Constitution, should be thus limited. The legislature had protected the ballot at town and city elections by prescribing small areas and a period of residence. The Governor and the legislature, in proposing the amendment, must have had in mind elections not so protected. As state elections covered and included the territory within all cities and towns of the state, it was evidently found convenient, in amending the Constitution, for the protection of state elections, to designate wards and precincts in towns and cities as limitations of voting areas to be added in the Constitution for voters at state elections,—for voters at elections “not otherwise provided for.” The discussions, in the legislature at the session of 1877, of this proposed amendment to the Constitution were not preserved, or printed in any report. The discussions of the same resolution at the session of 1879 are preserved, to some extent, in the briefer report of that session, and a reading of this report discloses no discussion whatever of a proposition to provide how and

by whom town and city officers should be elected. Had such a radical change been intended, had the people realized that by the amendment of 1881, by the use therein of the word "ward," they were removing from themselves one step farther, a right they had preserved to their direct representatives in the assembly, discussion and strong opposition would have developed. Had the people determined that it were better that the qualifications of electors at town and city elections be fixed, and not readily changed, they would not have left the matter to a mere inference from the word "ward," but would have used language fully and clearly expressing the idea that the amendment should apply to town and city elections, and would have expressly withdrawn town and city elections from the class otherwise provided for.

The legislature at several sessions, after the amendment of 1881, asserted its right to prescribe who should vote at town and city elections. The act of 1905 recognizes qualifications prescribed by the general assembly in addition to those prescribed in the Constitution. It reads: "In all municipal elections, no other qualifications shall be required of any voter than such as are made necessary in general elections, under the Constitution, and *laws of the state*." (Acts 1905, §230, p. 383, §8884 Burns 1914.) If the amendment of 1881 covered the matter into the Constitution, why should the legislature further treat of the subject? Evidently the assembly, in its sessions of 1877 and 1879, did not intend that the amendment it then proposed should destroy its power to later say who should vote at town and city elections; at least it has denied such intent by its later acts naming such electors. The ambiguity and need for construction of the Constitution, in this case suggested, continued until 1881. The amendment then made has, judging by the good-faith differences of opinion in this case, not removed, but has intensified the ambiguity. The general assembly has continued since 1881 to assert who shall vote at town and city elections, and a statute

to that effect was in force at the time of the adoption of the act in question. Thus we have a long-continued, practical exposition of the meaning of the Constitution and of its amendment. This exposition has been so uniform, and is so persistent, that it removes all ambiguity, and establishes, or demonstrates, the existence of a principle, and that principle, local self-government, underlies the whole of this cause. Consistent with that principle, the general assembly has deemed it best that women shall vote at local elections. "If we find a principle established by long-continued practice, we must yield to it, unless we are satisfied that it is repugnant to the plain words of the Constitution." *Hovey, Governor, v. State, ex rel., supra; French v. State, ex rel.* (1895), 141 Ind. 618, 41 N. E. 2, 29 L. R. A. 113.

The prevailing opinion, and the concurring opinion, draw from the use of the word "ward," and other facts stated, one inference. I draw from the word "ward" and substantially the same facts an entirely different inference; and I submit that the latter is at least as well founded and reasonable as the former. The rule, under such circumstances, is that the inference which will sustain the law shall be indulged. Further, if doubt existed in my mind as to which inference should be drawn, that doubt should be resolved in favor of the validity of the law, if this can be reasonably done. "The power to declare a statute unconstitutional is one of the highest intrusted to a judicial tribunal, and is only to be exercised with the greatest care, and only when there is no doubt of the unconstitutionality of the law. If there is any doubt in the mind of the court as to the constitutionality of a law, it must be resolved in favor of its validity." *City of Indianapolis v. Navin* (1898), 151 Ind. 139, 145, 47 N. E. 525, 51 N. E. 80, 41 L. R. A. 337, and citations therein.

It is argued by those opposed to the law that the qualifications fixed in the Constitution not only include all who shall vote at any and all elections but exclude all

others as voters. This argument is of little force when we find in the same section an exception stating in effect that the qualifications do not apply to elections "otherwise provided for," and find elsewhere in the Constitution that the election here involved is otherwise provided for.

It is argued by those favoring the law that the Constitution only guarantees that males, twenty-one years of age, who have resided in the designated territory for a named period, may vote. In other words, that this guaranteed right shall not by legislation be taken from them; but that the provision is not meant to be exclusive of all others as voters; and, hence, the general assembly may provide that others may vote. This argument would be pertinent had the general assembly attempted to change the qualifications of voters for Governor or secretary of state, or any office created by the Constitution, as the Constitution does not say that these officers are in the class otherwise provided for, but does provide expressly who shall vote for these officers. The debate then would be: What power has the legislature over qualifications fixed by the Constitution? For the reasons stated, my opinion is not in the slightest conflict with the decision in *Gougar v. Timberlake* (1896), 148 Ind. 38, 46 N. E. 339, 37 L. R. A. 644, 62 Am. St. 487, as in that case Mrs. Gougar demanded a right to vote for officers the choice of whom was, by the Constitution, committed to voters whose qualifications were fixed in the Constitution; and if it were conceded that the general assembly had power to permit others to vote at such elections, the assembly had not made any such provision. This opinion is also in entire accord with the general principles and rules of government announced in *Ellingham v. Dye* (1912), 178 Ind. 336, 99 N. E. 1, 99 N. E. 29, 231 U. S. 205, 58 L. Ed. 206, Ann. Cas. 1915 C 200; and in *Bennett v. Jackson* (1917), 186 Ind. 533, 116 N. E. 921.

I agree with my associates that the assembly has power to provide that women may vote at school elections. In

fact, the assembly has in several acts so provided. I do not agree, however, that the provision to that effect in the act of 1917 is so interwoven with the city election provision that it must fail with the latter. In my opinion the act of 1917 is severable as to each class of officers named therein, as if the provision for each class had been made by a separate act. If, therefore, the act is invalid as to any one class, such invalidity does not destroy the act as to other classes.

In my opinion, the judgment appealed from should have been reversed.

NOTE.—Reported in 117 N. E. 565, 650. Validity of a statute giving women the right to vote, Ann. Cas. 1915A 802.

568. PROHIBITION STATE PLATFORM, April 3, 1918

The only resolutions relating to constitutional changes which were adopted by the Prohibition State Convention which assembled on April 3, 1918, indorsed woman suffrage and the restriction of the suffrage to fully naturalized aliens.

Year Book of the State of Indiana, 1918, pp. 912, 913:

We stand for equal suffrage without regard to race or sex and favor submission of the now pending suffrage resolution for amendment to the State constitution to be voted on in 1920.

.....
The State wisely requires that our American youths shall reach the age of 21 years before being given the ballot. We call for the repeal of any laws granting the ballot to aliens or permitting such aliens to hold office before being fully naturalized.

569. SOCIALIST STATE PLATFORM, May, 1918

The Socialist Party, assembled in convention in May, 1918, adopted the following resolutions relative to changes in the Constitution.

Year Book of the State of Indiana, 1918, pp. 914, 915:

As a measure calculated to provide relief, we pledge our elected candidates to support the following program:

.....

2. Equal suffrage without regard to sex, race, creed or property qualification.

3. Direct legislation by means of the initiative, referendum and recall.

.....
 6. The abolition of poll tax and a tax exemption of personal property which does not exceed six hundred dollars.

.....
 8. An early constitutional convention and a provision for proportional representation.

570. REPUBLICAN STATE PLATFORM, May 29, 1918

The Republican State Convention which was held on May 28 and 29, 1918 incorporated in its platform a resolution in favor of the appointment of the state superintendent of public instruction and the clerk of the Supreme Court; the adoption of the state budget system; limitation of the tax rate; tax reform; the veto of items in appropriation bills by the governor; the classification of counties for the purpose of registering voters; and in opposition to an increase in the salaries of elected or appointed officials during their terms of office.

Year Book of the State of Indiana, 1918, pp. 901-2:

We favor a constitutional amendment abolishing the offices of State Superintendent of public instruction and clerk of the Supreme Court and the re-establishment of these offices by legislation making the same appointive, such clerk to be appointed by the Supreme and Appellate Courts.

Two years ago the Republican party pledged itself to the support of constitutional amendments providing for the adoption of the budget system, limitation of the tax rate and taxation reform, veto by the Governor of single items in appropriation bills, and against any increase in salaries of appointive or elective officials during the time for which they are appointed or elected. The General Assembly called a constitutional convention which was expected to deal with these questions, but this law was

declared unconstitutional.⁴⁸ The party pledges itself to the presentation of these amendments to the next General Assembly for its approval, and in addition thereto presentation of an amendment authorizing the legislature to classify the counties of the State for registration purposes and making it unnecessary for smaller counties to register their vote.

571. DEMOCRATIC STATE PLATFORM, June 19, 1918

The Democratic State Convention was held on June 18 and 19, 1918. The only plank in the Democratic platform relative to a change in the Constitution was one indorsing woman suffrage.

Year Book of the State of Indiana, 1918, p. 911:

We favor the speedy enactment of the pending Federal amendment granting equal franchise to women, and pledge the legislature of Indiana, if Democratic, to promptly ratify such amendment; and if not nationally enacted, we pledge the Democratic party of Indiana to amend the constitution of our State granting equal franchise to women in Indiana, and in recognition of the splendid work they are doing in support of all war activities, and believing in the principle of equal suffrage, we invite them to participate in the councils of our party.

⁴⁸ See Document No. 566.

SEVENTY-FIRST GENERAL ASSEMBLY

REGULAR SESSION, 1919

SPECIAL SESSION, 1920

The House of Representatives of the General Assembly which convened on January 9 and adjourned on March 10, 1919, consisted of 82 Republicans and 18 Democrats, and the Senate consisted of 34 Republicans and 16 Democrats. James P. Goodrich (Rep.) was governor. The two constitutional amendments which had been proposed by the General Assembly of 1917 were pending, and awaiting the action of the General Assembly of 1919. One of these amendments prohibited the increase in the salaries of, and the extension of the terms of public officials during their tenure of office;¹ and the other conferred the right of suffrage on women.² For the purpose of facilitating the amendment of the Constitution, and on the recommendation of Governor Goodrich, these two resolutions were withdrawn.

Meantime, since the close of the session of 1917, the act providing for a constitutional convention³ and the act conferring partial suffrage on women⁴ had both been declared invalid by the Indiana Supreme Court.⁵ Obviously the only remaining methods of securing amendments to the Constitution were, first, the method of amendment prescribed by the Constitution itself and, second, the submission of the question of calling a constitutional convention to a vote of the people. Governor Goodrich recommended a considerable number of amendments, and during the session of 1919 sixteen amendments were adopted and referred to the General Assembly of 1921 for consideration. A bill providing for a vote of the electors on the question of calling a constitutional convention was under consideration in each house, but no such law was enacted.

The Seventy-first General Assembly held two special sessions, one of which convened and adjourned on January 16, 1920, and the other of which convened on July 12 and adjourned on July 30, 1920. No constitutional measures were considered at either of the special sessions.

¹ See Document No. 544.

³ See Document No. 563.

² See Document No. 557.

⁴ See Document No. 564.

⁵ See Documents Nos. 566 and 567.

572. GOVERNOR'S MESSAGE, January 9, 1919:
CONSTITUTIONAL AMENDMENTS

In his message to the General Assembly, delivered on January 9, 1919, Governor James P. Goodrich recommended that the two pending constitutional amendments which had been proposed by the General Assembly of 1917 and were awaiting action by the General Assembly of 1919, be withdrawn⁶ and that amendments to the Constitution be proposed authorizing women to vote; restricting the right to vote and hold office to citizens of the state; providing that the state superintendent of public instruction and the clerk of the Indiana Supreme Court be appointed instead of elected; establishing the state budget system; authorizing the governor to veto items in appropriation bills; prohibiting increases in the salaries of public officials during their terms of office; classifying counties for the purpose of registering voters; readjusting the general tax system of the state; simplifying the method of amending the Constitution; and authorizing negroes to serve in the state militia.

Senate Journal, Seventy-first Assembly, 1919, pp. 14-15:
CONSTITUTIONAL AMENDMENTS

The Supreme Court has held that a constitutional convention can be called only by a referendum to the people.

That our Constitution, adopted when we were an agricultural State, with no large cities, no longer meets the demands of our complex social, industrial and economic relations is evident.

Should the General Assembly submit the question of calling a convention to a vote of the people in 1920, no one can foresee the result of the referendum. Some changes in our Constitution are imperative.

Two years ago a constitutional amendment was passed providing for equal suffrage. If this amendment is approved by this General Assembly, then, under the provisions of our Constitution no other amendments can be considered until the pending amendment is disposed of. This would prevent any attempt to further amend the Constitution for four years and seriously impede the progress of our State. I, therefore, recommend that all

⁶ See Documents Nos. 544 and 557.

pending proposals to amend the Constitution be rejected and the following amendments be approved by this General Assembly for reference to the General Assembly of 1921:

Providing for equal suffrage.

Limiting the right to vote and hold office to citizens of the State.

Abolishing the elective offices of State Superintendent of Public Instruction and Clerk of the Supreme Court.

Providing for the budget system and authorizing the Governor to veto any item in an appropriation bill.

Against increasing the salary of any official for the term of office for which he is elected.

Authorizing the General Assembly to classify counties for registration purposes so as to make unnecessary the registration of voters in the smaller counties of the State.

Giving the General Assembly larger power in dealing with the tax question and especially power to adopt an income tax and classify property for the purpose of taxation.

Simplifying the method of amending the Constitution so that after one General Assembly has passed an amendment it may be submitted directly to the people without passing another General Assembly.

In this connection, I call your attention to the discrimination against the colored people of Indiana in our state Constitution. Under the provisions of the Constitution, men of the colored race are not permitted to become members of the Indiana State Militia or National Guard. In every war in this country, since the days of the revolution, negro soldiers have fought side by side with their white comrades for the cause of America. In the great struggle which has just been ended, we have heard of the gallantry of the colored boys who fought with their white brothers upon the battlefields of Europe. It is unfair to them and not consistent with the spirit of the times that the word "white" remains in our Constitution. In justice to them, and as a tribute to their

loyalty and spirit of sacrifice, I recommend that a joint resolution be passed, submitting an amendment striking the word "white" from our Constitution.

573. LEGISLATIVE ACTION, January 15-22, 1919:
WITHDRAWAL OF PENDING AMENDMENTS

Only two of the constitutional amendments proposed by the General Assembly of 1917 were adopted. These amendments were incorporated in Senate Joint Resolution No. 1 and Senate Joint Resolution No. 14, respectively. At the beginning of the session of 1919 these two pending amendments were under consideration by the Senate and were referred to the Committee on Constitutional Revision. On January 15 the committee made a report recommending that the two pending amendments be rejected. The report embodying this recommendation is as follows:

Senate Journal, Seventy-first Assembly, 1919, pp. 83-84:

Your Committee on Constitutional Revision, to which was referred Senate Joint Resolutions Nos. 1 and 14, being the amendments to the Constitution of the State of Indiana proposed and agreed to by the Seventieth (70th) General Assembly of the State and referred to the present General Assembly for reconsideration and agreement, has had the same under consideration and begs leave to report the same back to the Senate with the recommendations that said proposed amendments to the Constitution of the State of Indiana be rejected.⁷

After consideration, the report of the committee was made a special order of business for January 16. On January 16, the report was considered and the following motion of Senator William E. English, disposing of all prior action of the Senate, was adopted:

Senate Journal, Seventy-first Assembly, 1919, p. 92:

I move that the action of the Senate in referring Senate Joint Resolutions 1 and 14, the same being pending amendments to the Constitution, to the Committee on Constitutional Revision, be reconsidered and that all proceedings relating to these proposed amendments be expunged from the records.

⁷ See Documents Nos. 544 and 557 for text of the amendments as passed in 1917. For their reintroduction, see Documents Nos. 601 and 602.

Apparently the two pending amendments had not been formally transmitted to the General Assembly by the secretary of state and accordingly all action thereon was void. At any rate, on January 16, just prior to the adoption of the expunging resolution, the following resolution, requesting the secretary of state to transmit certified copies of the pending amendments to the Senate, was adopted:

Senate Journal, Seventy-first Assembly, 1919, p. 92:

Resolved, That the Secretary of State be and is hereby requested to furnish to the Lieutenant-Governor, as the presiding officer of the Senate, a certified copy of each of the enrolled Senate joint resolutions proposing amendments to the Constitution of the State of Indiana on file in his office, and which passed the Senate and House at the regular session of the Seventieth General Assembly and were referred to the present General Assembly for action thereon.

On January 17 the secretary of state transmitted certified copies of the two pending amendments to the General Assembly. The letters of transmittal are as follows:

House Journal, Seventy-first Assembly, 1919, p. 90:

United States of America,
State of Indiana,
Office of the Secretary of State.

I, William A. Roach, Secretary of State of the State of Indiana, hereby certify that the annexed pages contain a full, true and complete copy of a Joint Resolution to amend section two (2), article fifteen (XV) of the Constitution of the State of Indiana, relating to the increase of terms and salaries of officers (S. Joint Resolution 1), approved March 7, 1917, as the same appears on file, as the law directs, in this office.

In Testimony Whereof, I hereunto set my hand and affix the Great Seal of the State of Indiana. Done at my office in the City of Indianapolis this 17th day of January, A. D. 1919.

WILLIAM A. ROACH,
Secretary of State.

Chapter 187.

A Joint Resolution to amend section two (2), article fifteen (XV) of the Constitution of the State of Indiana, relating to the increase of terms and salaries of officers.

(S. Joint Resolution 1. Approved March 7, 1917.)

PROPOSED AMENDMENT TO SECTION 2 OF ARTICLE XV OF
THE CONSTITUTION OF THE STATE OF INDIANA.

Section 1. Be it Resolved by the General Assembly of the State of Indiana, that the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the Seventieth (70th) General Assembly of the State of Indiana and is referred to the next General Assembly of the State for reconsideration and agreement.

Sec. 2. That section two (2), article fifteen (XV) of the Constitution of the State of Indiana be amended to read as follows:

Section 2. When the duration of any office is not provided for by this Constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the General Assembly shall not create any office, the tenure of which shall be longer than four (4) years, nor shall the term of office or salary of any officers fixed by this Constitution or by-law be increased during the terms for which such officer was elected or appointed.

House Journal, Seventy-first Assembly, 1919, pp. 91-92:

United States of America,

State of Indiana,

Office of the Secretary of State.

I, William A. Roach, Secretary of State of the State of Indiana, hereby certify that the annexed pages contain a full, true and complete copy of the Joint Resolution proposing an amendment to article two (2) of the Constitution of the State of Indiana, adding thereto a

further section to be numbered section fifteen (15), which section provides how females, who are citizens of the United States, shall qualify as electors (S. Joint Resolution 14), March 7, 1917, as the same appears on file, as the law directs, in this office.

In Testimony Whereof, I hereunto set my hand and affix the Great Seal of the State of Indiana. Done at my office, in the City of Indianapolis, this 17th day of January, A. D. 1919.

WILLIAM A. ROACH,
Secretary of State.

Chapter 188.

A Joint Resolution proposing an amendment to article two (2) of the Constitution of the State of Indiana, adding thereto a further section to be numbered section fifteen (15), which section provides how females, who are citizens of the United States, shall qualify as electors. (S. Joint Resolution 14. Approved March 7, 1917).

Amendment Proposed to Article 11 of Section XV of the Constitution of The State of Indiana.

Section 1. Be it Resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana be and is hereby proposed and agreed to by this, the Seventieth (70th) General Assembly of the State of Indiana and is referred to the next General Assembly for reconsideration and agreement.

Sec. 2. That article two (2) of the Constitution of the State of Indiana is amended by adding thereto a further section to be numbered section fifteen (15) to read as follows:

Section 15. In all elections not otherwise provided for by this Constitution, every female citizen of the United States of the age of twenty-one years and upwards, who shall have resided in the State during the one year and in the township sixty days, and in the ward or precinct

thirty days immediately preceding such election, shall be entitled to vote in the township or precinct where she may reside, if she shall have been duly registered according to law.

On January 17 the following motions, formally rejecting the two pending amendments, were offered by Senator Oscar Ratts:

Senate Journal, Seventy-first Assembly, 1919, p. 93:

I move that the joint resolution proposed to and agreed to by a majority of the members elected to each of the two Houses of the Seventieth (70th) General Assembly as Senate Joint Resolution No. 1, and entitled a joint resolution to amend section two (2) article fifteen (XV) of the Constitution of the State of Indiana, relating to the increase of terms and salaries of officers be rejected, and that said proposed amendment to said Constitution be not agreed to by the members of this, the Seventy-first General Assembly of Indiana.

Senate Journal, Seventy-first Assembly, 1919, pp. 93-94:

I move that the joint resolution proposed and agreed to by a majority of the members elected to each of the two Houses of the Seventieth (70th) General Assembly of Indiana, and known and designated in said Seventieth (70th) General Assembly as Senate Joint Resolution number fourteen (14), entitled a joint resolution proposing an amendment to article two (II) of the Constitution of the State of Indiana, adding thereto a further section to be numbered section fifteen (XV) which section provides how females who are citizens of the United States shall qualify as electors, shall be rejected and that said proposed amendment to said Constitution be not agreed to by the members of this, the Seventy-first (71st) General Assembly of Indiana.

The roll call on the rejection of each amendment was taken separately and each amendment was rejected by a vote of 45-0. On January 20 the motions of rejection were received by the House and were handed down for immediate consideration. Upon the reading of Senate Joint Resolution No. 1, Jacob D. Miltenberger offered the following motion:

House Journal, Seventy-first Assembly, 1919, p. 90:

I move that the joint resolution proposed to and agreed to by a majority of the members elected to each of the two Houses of the Seventieth General Assembly of Indiana, and known and designated in said Seventieth General Assembly as Senate Joint Resolution No. 1 and entitled "A Joint Resolution to amend Section two (2), Article fifteen (15) of the Constitution of the State of Indiana, relating to the increase of terms and salaries of officers," be rejected, and that said proposed amendment to said Constitution be not agreed to by the members of this the Seventy-first General Assembly of Indiana.

This motion was adopted by a vote of 78-10. Thereupon Senate Joint Resolution No. 14 was read and Mr. Miltenberger offered the following motion:

House Journal, Seventy-first Assembly, 1919, p. 92:

I move that the joint resolution proposed to and agreed to by a majority of the members elected to each of the two Houses of the Seventieth General Assembly of Indiana, and known and designated in said Seventieth General Assembly as Senate Joint Resolution Number 14 and entitled "A Joint Resolution proposing an amendment to Article two (2) of the Constitution of the State of Indiana, adding thereto a further section to be numbered section fifteen (15), which section provides how females who are citizens of the United States shall qualify as electors," shall be rejected and that said proposed amendment to said Constitution be not agreed to by the members of this the Seventy-first General Assembly of Indiana.

This motion was adopted by a vote of 75-12. On January 22 the House informed the Senate that it had adopted the Senate motion rejecting the two pending amendments.⁸

⁸ The withdrawal of these two amendments had been recommended by Governor Goodrich in his message to the General Assembly. See Document No. 572. In the case known as *In re Boswell*, 179 *Indiana* 292, the Supreme Court had held, in substance, that a pending amendment may be withdrawn by the General Assembly from further consideration. See Document No. 530, in *Kettleborough, Constitution Making in Indiana*, 2:582-85.

574. JOINT RESOLUTION: STATE MILITIA

On January 13, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 3 proposing an amendment to section 1 of Article XII of the Constitution. The proposed amendment was designed to permit negroes to join the state militia. This resolution was read the first time on January 13 and was referred to the Committee on Constitutional Revision. On January 22 Senator English asked and obtained unanimous consent to withdraw Senate Joint Resolutions Nos. 3 to 15, inclusive, and these thirteen resolutions were withdrawn accordingly.⁹

Senate Journal, Seventy-first Assembly, 1919, p. 70:

A joint resolution to amend Section one (1), Article twelve (XII) of the Constitution of the State of Indiana, relating to the militia of the State by striking out the word "white" from said section.¹⁰

575. JOINT RESOLUTION: METHOD OF AMENDING CONSTITUTION

On January 13, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 4 proposing an amendment to sections 1 and 2 of Article XVI of the Constitution.¹¹ The proposed amendment was designed to change the method of amending the Constitution by providing that proposed amendments might be adopted by a two-thirds vote of each house of any General Assembly and submitted to the people, and that if a majority of the electors voting on the amendment voted in favor of its adoption it should become a part of the Constitution. The resolution was read the first time on January 13 and was referred to the Committee on Constitutional Revision. On January 22 Senator English asked and obtained unanimous consent to withdraw Senate Joint Resolutions Nos. 3 to 15, inclusive, and these thirteen resolutions were withdrawn accordingly.¹²

Senate Journal, Seventy-first Assembly, 1919, pp. 70-71:

A joint resolution to amend sections one (1) and two (2), article sixteen (XVI) of the Constitution of the

⁹ See Documents Nos. 575 to 586, inclusive.

¹⁰ This resolution is identical with Senate Joint Resolution No. 16. See Document No. 587 for the complete text.

¹¹ The amendments proposed by this resolution are identical with the amendments as originally proposed by Senate Joint Resolution No. 17. See Document No. 588.

¹² See Documents Nos. 574, and 576 to 586, inclusive.

State of Indiana relating to the method of amending the Constitution.

Section 1. Be it resolved by the General Assembly of the State of Indiana, that the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the Seventy-first General Assembly of the State of Indiana and is referred to the next General Assembly of the State for reconsideration and agreement.

Section 2. That sections one (1) and two (2) article sixteen (XVI) of the Constitution of the State of Indiana be amended to read as follows:

Section 1. Any amendment or amendments to this Constitution may be proposed at a regular session in either branch of the General Assembly, and if the same shall be agreed to by two-thirds of the members elected to each of the two Houses, such proposed amendment or amendments shall be entered on their journals and then it shall be the duty of the General Assembly to submit such amendment or amendments to the electors of the State at the next general election and if the majority of the electors voting thereon shall ratify the same, such amendment or amendments shall become a part of the Constitution.

Section 2. If two (2) or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

576. JOINT RESOLUTION: CLERK OF SUPREME COURT

On January 13, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 5 proposing an amendment to section 7 of Article VII of the Constitution.¹³ The proposed amendment was designed to provide that the clerk of the Indiana Supreme Court be appointed by the Supreme Court instead of being elected by the voters. This resolution was read the first time on January 13 and was referred to the Committee on Con-

¹³ The amendment proposed by this resolution is identical with the amendment as originally proposed by Senate Joint Resolution No. 18. See Document No. 589.

stitutional Revision. On January 22 Senator English asked and obtained unanimous consent to withdraw Senate Joint Resolutions Nos. 3 to 15, inclusive, and these thirteen resolutions were withdrawn accordingly.¹⁴

Senate Journal, Seventy-first Assembly, 1919, p. 71:

A joint resolution to amend section seven (7) of article seven (VII) of the Constitution of the State of Indiana, relating to the office of Clerk of the Supreme Court.

Section 1. Be it resolved by the General Assembly of the State of Indiana, that the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this, the Seventy-first (71st) General Assembly of the State, and is referred to the next General Assembly of the State for reconsideration and agreement.

Section 2. That section seven (7) of article seven (VII) of the Constitution of the State of Indiana be amended to read as follows: Section 7. The General Assembly shall provide for the appointment by the judges of the Supreme Court, or the judges of the Supreme Court in conjunction with the judges of the Appellate Court if there shall be one, for clerk of the Supreme Court, who shall be ex-officio clerk of the Appellate Court, and whose term of office, duties and compensation shall be prescribed by law.

Provided, that until the expiration of the term of the clerk of the Supreme Court elected at the general election in the year 1922, such office shall be filled as provided by the laws of this State, as they existed prior to the adoption of this amendment to the Constitution.

577. JOINT RESOLUTION: STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

On January 13, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 6 proposing an amendment to section 8 of Article VIII of the Constitution.¹⁵ The proposed

¹⁴ See Documents Nos. 574, 575, and 577 to 586, inclusive.

¹⁵ The amendment proposed by this resolution is identical with the amendment as originally proposed by Senate Joint Resolution No. 19. See Document No. 590.

amendment was designed to provide that the state superintendent of public instruction be appointed instead of being elected by the voters. This resolution was read the first time on January 13 and was referred to the Committee on Constitutional Revision. On January 22 Senator English asked and obtained unanimous consent to withdraw Senate Joint Resolutions Nos. 3 to 15, inclusive, and these thirteen resolutions were withdrawn accordingly.¹⁶

Senate Journal, Seventy-first Assembly, 1919, p. 71:

A joint resolution to amend section eight (8) of article eight (VIII) of the Constitution of the State of Indiana, relating to the office of the State Superintendent of Public Instruction.

Section 1. Be it resolved by the General Assembly of the State of Indiana, that the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the Seventy-first (71st) General Assembly of the State of Indiana, and is referred to the next General Assembly of the State of Indiana for reconsideration and agreement.

Section 2. That section eight (8) of article eight (VIII) of the Constitution of the State of Indiana be amended to read as follows:

Section 8. The General Assembly shall provide for the appointment of a State Superintendent of Public Instruction, whose term of office, duties and compensation shall be prescribed by law.

Provided, that until the expiration of the term of the State Superintendent of Public Instruction elected at the general election in the year 1922 such office shall be filled as provided by the laws of the State as they existed prior to the adoption of this amendment to the Constitution.

578. JOINT RESOLUTION: REGISTRATION OF VOTERS

On January 13, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 7 proposing an amendment to section 14 of Article II of the Constitution.¹⁷ The proposed

¹⁶ See Documents Nos. 574, 575, 576, and 578 to 586, inclusive.

¹⁷ The amendment proposed by this resolution is identical with the amendment as originally proposed by Senate Joint Resolution No. 20. See Document No. 591.

amendment was designed to authorize the General Assembly to classify the various counties of the state for the purpose of the registration of voters. This resolution was read the first time on January 13 and was referred to the Committee on Constitutional Revision. On January 22 Senator English asked and obtained unanimous consent to withdraw Senate Joint Resolutions Nos. 3 to 15, inclusive, and these thirteen resolutions were withdrawn accordingly.¹⁸

Senate Journal, Seventy-first Assembly, 1919, p. 72:

A joint resolution to amend section fourteen (14) of article two (II) of the Constitution of the State of Indiana by authorizing the classification of counties for the purpose of providing for the registration of persons entitled to vote.

Section 1. Be it resolved by the General Assembly of the State of Indiana, that the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the Seventy-first (71st) General Assembly of the State of Indiana, and is referred to the next General Assembly of the State for reconsideration and agreement.

Section 2. That section fourteen (14) of article two (II) of the Constitution of the State of Indiana, be amended to read as follows:

Section 14. All general elections shall be held on the first Tuesday after the first Monday in November; but township elections may be held at such times as may be provided by law: Provided, that the General Assembly may provide by law for the election of all judges of courts of general or appellate jurisdiction, by an election to be held for such officers only, at which time no other officer shall be voted for; and shall also provide for the registration of all persons entitled to vote. In providing for the registration of persons entitled to vote, the General Assembly shall have power to divide the several counties of the State into classes, and to pass laws prescribing a uniform method of registration in each class, or to exempt any such prescribed class of

¹⁸ See Documents Nos. 574 to 577, and 579 to 586, inclusive.

counties from the operation of any registration law, and in any county or counties so exempted, registration shall not be required as a qualification for voting.

579. JOINT RESOLUTION: TAXATION

On January 13, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 8 proposing an amendment to section 1 of Article X of the Constitution.¹⁹ The proposed amendment was designed to authorize the General Assembly to classify property for the purposes of taxation. This resolution was read the first time on January 13 and was referred to the Committee on Constitutional Revision. On January 22 Senator English asked and obtained unanimous consent to withdraw Senate Joint Resolutions Nos. 3 to 15, inclusive, and these thirteen resolutions were withdrawn accordingly.²⁰

Senate Journal, Seventy-first Assembly, 1919, pp. 72-73:

A joint resolution to amend section one (1) article ten (X) of the Constitution of the State of Indiana, by providing for the classification of property for the purpose of taxation.

Section 1. Be it resolved by the General Assembly of the State of Indiana that the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this, the Seventy-first (71st) General Assembly of the State of Indiana, and is referred to the next General Assembly of the State for reconsideration and agreement.

Section 2. That section one (1) of article ten (X) of the Constitution of the State of Indiana be amended to read as follows: Section 1. The General Assembly shall provide by law for the assessment of property for taxation and the raising of revenue thereby, and shall prescribe such regulations as shall secure a just valuation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious or charitable purposes, as may be especially exempted by law. In these [thus] enacting laws for the

¹⁹ See Document No. 592.

²⁰ See Documents Nos. 574 to 578, and 580 to 586, inclusive.

assessment of property for taxation, the General Assembly shall have power to classify the several kinds of property at such rate as it may deem wise and equitable without regard to the rate applied to other classes of property, but all taxes shall be uniform upon the same class of subjects, within the territorial limits of the authority levying the tax.

580. JOINT RESOLUTION: VETO OF ITEMS IN APPROPRIATION BILLS

On January 13, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 9 proposing an amendment to section 14 of Article V of the Constitution.²¹ The proposed amendment was designed to authorize the governor to veto items in appropriation bills. This resolution was read the first time on January 13 and was referred to the Committee on Constitutional Revision. On January 22 Senator English asked and obtained unanimous consent to withdraw Senate Joint Resolutions Nos. 3 to 15, inclusive, and these thirteen resolutions were withdrawn accordingly.²²

Senate Journal, Seventy-first Assembly, 1919, p. 73:

A joint resolution to amend section fourteen (14) of article five (V) of the Constitution of the State of Indiana by authorizing the Governor to veto items in bills making appropriations of money.

Section 1. Be it resolved by the General Assembly of the State of Indiana that the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this, the Seventy-first (71st) General Assembly of the State of Indiana, and is referred to the next General Assembly of the State for reconsideration and agreement.

Section 2. That section fourteen (14) of article five (V) of the Constitution of the State of Indiana be amended to read as follows: Section 14. Every bill which shall have passed the General Assembly shall be

²¹ The amendment proposed by this resolution is identical with the amendment as originally proposed by Senate Joint Resolution No. 22. See Document No. 593.

²² See Documents Nos. 574 to 579, and 581 to 586, inclusive.

presented to the Governor; if he approves, he shall sign it, but if not, he shall return it with his objections to the house in which it shall have originated, which house shall enter the objections at large upon its journals, and proceed to reconsider the bill. If, after such reconsideration, a majority of all of the members elected to that house shall agree to pass the bill, it shall be sent with the Governor's objections to the other house, by which it shall likewise be reconsidered, and if approved by a majority of all of the members elected to that house, it shall be a law. If any bill shall not be returned by the Governor within three days, Sundays excepted, after it shall have been presented to him, it shall be a law without his signature, unless the general adjournment shall prevent its return, in which case it shall be a law, unless the Governor within five (5) days next after such adjournment, shall file such bill, with his objections thereto, in the office of the Secretary of State, who shall lay the same before the General Assembly at its next session in like manner as if it had been returned by the Governor. But no bill shall be presented to the Governor within two days next previous to the final adjournment of the General Assembly. The Governor shall have power to approve or disapprove any item or items of any bill making appropriations of money, embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of the appropriation disapproved shall be void unless repassed according to the rules and limitations prescribed in this section for the passage of bills over the executive veto. In case the Governor shall disapprove any item or items of any bill making appropriations of money, he shall append to the bill, at the time of signing it, a statement of the item or items which he declines to approve, together with the reasons therefor. If the General Assembly be in session, the Governor shall transmit to the house in which the bill originated, a copy of such statement, and the item or items so objected to shall be separately reconsidered in the same manner as

bills which have been disapproved by the Governor, and if, on reconsideration, one or more of such items shall be approved by a majority of all the members elected to each house, the same shall be a part of the law notwithstanding the objections of the Governor.

581. JOINT RESOLUTION: STATE BUDGET

On January 13, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 10 proposing an amendment to Article IV of the Constitution by adding thereto a new section to be designated as section 31. The proposed amendment was designed to establish an executive budget for the state. This resolution was read the first time on January 13 and was referred to the Committee on Constitutional Revision. On January 22 Senator English asked and obtained unanimous consent to withdraw Senate Joint Resolutions Nos. 3 to 15, inclusive, and these thirteen resolutions were withdrawn accordingly.²³

Senate Journal, Seventy-first Assembly, 1919, pp. 74-76:

A joint resolution to amend article four (IV) of the Constitution of the State of Indiana by adding thereto a new section to be numbered section thirty-one (31) relating to an executive budget.²⁴

.....

Sub-Section D.

First: If the budget bill shall not have been finally acted upon by the General Assembly three days before the expiration of its regular session, the Governor may, and it shall be his duty to issue a proclamation extending the session for such further period as may, in his judgment, be necessary for the passage of such bill; but no other matter than such bill shall be considered during such extended session except a provision for the cost thereof. Members of the General Assembly shall serve without pay during said extended session.

²³ See Documents Nos. 574 to 580, and 582 to 586, inclusive.

²⁴ The amendment proposed by this resolution is identical with the amendment as originally proposed by Senate Joint Resolution No. 23. See Document No. 594 for that part of the resolution preceding Sub-section D.

Second: The Governor, for the purpose of making up his budget, shall have the power, and it shall be his duty, to require from the proper state officials including herein all executive departments, all executive and administrative officers, bureaus, boards, commissions and agencies expending or supervising the expenditure of, and institutions applying for state moneys and appropriations, such itemized estimates and other information in such form and at such time as he shall direct. The estimates for the legislative department, certified by the presiding officer of each house, of the judiciary, as certified by the Auditor of the State, and for the public schools or higher institutions of learning as certified by the State Superintendent of Public Instruction or the administrative head of such institution, shall be transmitted to the Governor in such form and at such time as he shall direct and shall be included in the budget.

The Governor may provide for public hearings on all estimates and may require the attendance at such hearings of representatives of all agencies and all institutions applying for state moneys. After such public hearings he may, in his discretion, revise all estimates except those for legislative and judiciary departments, and for the public schools as provided by law.

Third: The General Assembly may from time to time, enact such laws, not inconsistent with this section, as may be necessary and proper to carry out its provisions.

Fourth: In the event of an inconsistency between any of the provisions of this section and any of the other provisions of the Constitution, the provisions of this section shall prevail. But nothing herein shall be construed as preventing the Governor from calling special sessions of the legislature as provided by section nine (9) article four (IV), or as preventing the General Assembly at such special sessions from considering any emergency appropriation or appropriations.

If any item of any appropriation bill passed under the

provisions of this section shall be held invalid upon any ground, such invalidity shall not affect the legality of the bill or any other item of such bill or bills.

582. JOINT RESOLUTION: TERMS OF STATE OFFICERS

On January 13, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 11 proposing an amendment to section 1 of article VI of the Constitution.²⁵ The proposed amendment was designed to fix the terms of state officers at four years. This resolution was read the first time on January 13 and was referred to the Committee on Constitutional Revision. On January 22 Senator English asked and obtained unanimous consent to withdraw Senate Joint Resolutions Nos. 3 to 15, inclusive, and these thirteen resolutions were withdrawn accordingly.²⁶

Senate Journal, Seventy-first Assembly, 1919, p. 77:

A joint resolution to amend section one (1) article six (VI) of the Constitution of the State of Indiana, by providing that terms of state officers shall be four years.

Section 1. Be it Resolved by the General Assembly of the State of Indiana, that the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this, the Seventy-first (71st) General Assembly of the State of Indiana, and is referred to the next General Assembly of the State for reconsideration and agreement.

Section 2. That section one (1) article six (VI) of the Constitution of the State of Indiana be amended to read as follows: Section 1. There shall be elected by the voters of the State a Secretary, an Auditor and a Treasurer of the State; said officers and all other state officers created by law and to be elected by the people, except supreme court judges, shall severally hold their offices for four years. They shall perform such duties as may be enjoined by law, and no person other than judges shall be eligible to any one of said offices for more than four years in any period of eight years.

²⁵ The amendment proposed by this resolution is identical with the amendment as originally proposed by Senate Joint Resolution No. 24. See Document No. 595.

²⁶ See Documents Nos. 574 to 581, and 583 to 586, inclusive.

583. JOINT RESOLUTION: TERMS OF COUNTY OFFICERS

On January 13, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 12 proposing an amendment to section 2 of Article VI of the Constitution.²⁷ The proposed amendment was designed to fix the terms of county officers at four years. This resolution was read the first time on January 13 and was referred to the Committee on Constitutional Revision. On January 22 Senator English asked and obtained unanimous consent to withdraw Senate Joint Resolutions Nos. 3 to 15, inclusive, and these thirteen resolutions were withdrawn accordingly.²⁸

Senate Journal, Seventy-first Assembly, 1919, p. 78:

A joint resolution to amend section two (2) article six (VI) of the Constitution of the State of Indiana, by providing that terms of county officers shall be four years.

Section 1. Be it resolved by the General Assembly of the State of Indiana, that the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this, the Seventy-first (71st) General Assembly of the State of Indiana and is referred to the next General Assembly of the State for reconsideration and agreement.

Section 2. That section two (2) article six (VI) of the Constitution of the State of Indiana be amended to read as follows: Section 2. There shall be elected in each county by the voters thereof at the time of holding general elections, a clerk of the circuit court, auditor, recorder, treasurer, sheriff, coroner and surveyor, who shall severally hold their offices for four years; and no person shall be eligible to either of said offices for more than four years in any period of eight years.

584. JOINT RESOLUTION: PROSECUTING ATTORNEYS

On January 13, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 13 proposing an amendment to section 11 of Article VII of the Constitution. The proposed amendment was designed to fix the terms of prosecuting attorneys

²⁷ The amendment proposed by this resolution is identical with the amendment as originally proposed by Senate Joint Resolution No. 25. See Document No. 596.

²⁸ See Documents Nos. 574 to 582, and 584 to 586, inclusive.

at four years. This resolution was read the first time on January 13 and was referred to the Committee on Constitutional Revision. On January 22 Senator English asked and obtained unanimous consent to withdraw Senate Joint Resolutions Nos. 3 to 15, inclusive, and these thirteen resolutions were withdrawn accordingly.²⁹

Senate Journal, Seventy-first Assembly, 1919, p. 78:

A joint resolution to amend section eleven (11) article seven (VII) of the Constitution of the State of Indiana, by extending the terms of prosecuting attorneys to four years.³⁰

585. JOINT RESOLUTION: QUALIFICATIONS FOR PRACTICE OF LAW

On January 13, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 14 proposing an amendment to section 21 of Article VII of the Constitution. The proposed amendment was designed to authorize the General Assembly to prescribe the qualifications necessary to be admitted to the practice of law. This resolution was read the first time on January 13 and was referred to the Committee on Constitutional Revision. On January 22 Senator English asked and obtained unanimous consent to withdraw Senate Joint Resolutions Nos. 3 to 15, inclusive, and these thirteen resolutions were withdrawn accordingly.³¹

Senate Journal, Seventy-first Assembly, 1919, p. 78:

A joint resolution to amend section twenty-one (21) article seven (VII) of the Constitution of the State of Indiana, relating to the qualifications of persons admitted to the practice of the law.³²

586. JOINT RESOLUTION: JUDGES OF SUPREME COURT

On January 13, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 15 proposing an amendment

²⁹ See Documents Nos. 574 to 583, inclusive, 585, and 586.

³⁰ The amendment proposed by this resolution is identical with the amendment proposed by Senate Joint Resolution No. 26. See Document No. 597 for complete text.

³¹ See Documents Nos. 574 to 584, inclusive, and 586.

³² The amendment proposed by this resolution is identical with the amendment proposed by Senate Joint Resolution No. 27. See Document No. 598 for complete text.

to section 2 of Article VII of the Constitution. The proposed amendment was designed to fix the number of judges of the Indiana Supreme Court at not to exceed thirteen, to enable the court to sit in divisions or *en banc* in the consideration of cases, and to authorize the General Assembly to fix the terms of the judges at not more than twelve years. This resolution was read the first time on January 13 and was referred to the Committee on Constitutional Revision. On January 22 Senator English asked and obtained unanimous consent to withdraw Senate Joint Resolutions Nos. 3 to 15, inclusive, and these thirteen resolutions were withdrawn accordingly.³³

Senate Journal, Seventy-first Assembly, 1919, p. 79:

A joint resolution to amend section two (2) article seven (VII) of the Constitution of the State of Indiana, relating to the judges of the Supreme Court.³⁴

587. JOINT RESOLUTION, February 20, 1919:
STATE MILITIA

On January 22, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 16 proposing an amendment to section 1 of Article XII of the Constitution. The proposed amendment was designed to permit negroes to serve in the state militia. This resolution was read the first time on January 22 and was referred to the Committee on Constitutional Revision; on January 23 it was reported for passage and concurred in; on January 30 it was read the second time and ordered engrossed; on January 31 it was read the third time, passed by a vote of 35-0, and was referred to the House.

The resolution was received by the House on February 3, was read the first time and referred to the Committee on Military Affairs; on February 7 it was reported for passage and concurred in; on February 15 it was read the second time and ordered engrossed; and on February 18 it was read the third time, passed by a vote of 81-0, and was transmitted to the Senate.

On February 19 the resolution was returned to the Senate and ordered enrolled; on February 20 it was signed by the president of the Senate and approved by the governor.³⁵

³³ See Documents Nos. 574 to 586, inclusive.

³⁴ The amendment proposed by this resolution is identical with the amendment proposed by Senate Joint Resolution No. 28. See Document No. 599 for complete text.

³⁵ This resolution is identical with Senate Joint Resolution No. 3. See Document No. 574.

Laws of Indiana, 1919, pp. 852-53:

CHAPTER 243.

A JOINT RESOLUTION to amend section one (1), article twelve (XII), of the Constitution of the State of Indiana, relating to the militia of the state by striking out the word "white" from said section.

[S. 16. Joint Resolution. Approved February 20, 1919.]

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana*, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this, the seventy-first (71st) General Assembly of the State of Indiana, and is referred to the next General Assembly of the state for reconsideration and agreement.

SEC. 2. That section one (1), article twelve (XII), of the Constitution of the State of Indiana be amended to read as follows: Section 1. The militia shall consist of all able-bodied male persons between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States, or of this state; and shall be organized, officered, armed, equipped and trained in such manner as may be provided by law.³⁶

588. JOINT RESOLUTION, March 10, 1919:

METHOD OF AMENDING CONSTITUTION

On January 22, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 17 proposing an amendment to sections 1 and 2 of Article XVI of the Constitution. The proposed amendment was designed to change the method of amending the Constitution by providing that proposed amendments which have been adopted by two General Assemblies and submitted to the voters become a part of the Constitution if ratified by a majority of the electors voting on the amendment.³⁷ This resolution was read the first time on January 22 and was referred to the Committee on Constitutional Revision; on January 23 it was re-

³⁶ In the General Assembly of 1921 this amendment was incorporated in Senate Joint Resolution No. 18. See Document No. 634.

³⁷ As originally introduced, the amendments proposed by this resolution were identical with the amendments proposed earlier in the session by Senate Joint Resolution No. 4. See Document No. 575 for complete text of the amendment as introduced.

ported for passage and concurred in; on January 30 it was read the second time and ordered engrossed; later the same day the resolution was amended by striking out the words "at the next general election"; on February 3 the resolution was recommitted to the Committee on Constitutional Revision for further consideration; on February 5 it was reported from the committee with the recommendation that a new section be substituted for section 1 of the amendment as proposed. The report of the committee was concurred in.³³ On February 7 the resolution was read the third time, passed by a vote of 34-6 and was transmitted to the House. Of the 34 affirmative votes, 28 were cast by Republicans and 6 by Democrats; of the 6 negative votes, 4 were cast by Democrats and 2 by Republicans.

The resolution was received by the House on February 10, was read the first time and referred to the Committee on Judiciary A; on February 21 it was reported for passage and concurred in; on February 27 it was read the second time and ordered engrossed; on March 5 it was read the third time, passed by a vote of 70-6, and was transmitted to the Senate. Of the 70 affirmative votes, 64 were cast by Republicans and 6 by Democrats; of the 6 negative votes, 5 were cast by Democrats and 1 by a Republican.

The resolution was returned to the Senate on March 7, was signed by the speaker of the House and the president of the Senate on March 8, and was approved by the governor on March 10.

Laws of Indiana, 1919, pp. 856-57:

CHAPTER 248.

A JOINT RESOLUTION to amend sections one (1) and two (2), article sixteen (XVI), of the Constitution of the State of Indiana, relating to the method of amending said constitution.

[S. 17. Joint Resolution. Approved March 10, 1919.]

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana*, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the seventy-first General Assembly of the State of Indiana, and is referred to the next General Assembly of the state for reconsideration and agreement.

SEC. 2. That sections one (1) and two (2), article (XVI), of the Constitution of the State of Indiana be amended to read as follows: Section 1. Any amend-

³³ See Section 1, in SEC. 2 of the resolution printed below.

ment or amendments to this Constitution may be proposed in either branch of the General Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals and referred to the General Assembly to be chosen at the next general election; and, if in the General Assembly so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the General Assembly to submit such amendment or amendments to the electors of the state, and if a majority of said electors voting thereon shall ratify the same, such amendment or amendments shall become a part of this Constitution.

SEC. 2. If two (2) or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.³⁹

589. JOINT RESOLUTION, March 10, 1919:
CLERK OF SUPREME COURT

On January 22, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 18 proposing an amendment to section 7 of Article VII of the Constitution. The proposed amendment was designed to provide for the appointment instead of the election of the clerk of the Supreme Court.⁴⁰ This resolution was read the first time on January 22 and was referred to the Committee on Constitutional Revision. On January 29 the committee brought out a divided report; the minority report, signed by Joseph M. Cravens (Dem.) and Glenn Van Auken (Dem.), recommended that the resolution be indefinitely postponed; the majority report, signed by William E. English (Rep.), Walter McConaha (Rep.), Donald P. Strode (Rep.), Curtis D. Meeker (Rep.), and Paul Maier (Rep.), recommended the passage of the resolution after amendment. The proposed amendment was identical with

³⁹ In the General Assembly of 1921, this amendment was incorporated in Senate Joint Resolution No. 20. See Document No. 636.

⁴⁰ The amendment as here proposed was practically identical with that proposed earlier in the session in Senate Resolution No. 5. See Document No. 576 for complete text of the amendment as introduced.

the amendment as finally passed except that in the proposed amendment, the word "appointment" was used instead of the word "selection." On the question of substituting the minority for the majority report, the vote was 21-24. Of the 21 votes cast in favor of indefinite postponement, 14 were cast by Democrats and 7 by Republicans; of the 24 votes cast in favor of the passage of the resolution after amendment, all were by Republicans. On February 4 the resolution was read the second time, amended, and ordered engrossed; on February 6 it was read the third time, passed by a vote of 31-11, and transmitted to the House. Of the 31 affirmative votes, all were cast by Republicans; of the 11 negative votes, all were cast by Democrats.

The resolution was received by the House on February 6, was read the first time and referred to the Committee on Judiciary A; on February 18 it was reported for passage and concurred in; on February 25 it was read the second time and ordered engrossed; on March 5 it was read the third time, passed by a vote of 52-20, and was returned to the Senate. Of the 52 affirmative votes, all were cast by Republicans; of the 20 negative votes, 12 were cast by Democrats and 8 by Republicans. The resolution was approved by the governor on March 10.

Laws of Indiana, 1919, p. 854:

CHAPTER 245.

A JOINT RESOLUTION to amend section seven (7) of article seven (VII) of the Constitution of the State of Indiana, relating to the office of clerk of the supreme court.

[S. 18. Joint Resolution. Approved March 10, 1919.]

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana*, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this, the seventy-first (71st) General Assembly of the state and is referred to the next General Assembly of the state for reconsideration and agreement.

SEC. 2. That section seven (7) of article seven (VII) of the Constitution of the State of Indiana be amended to read as follows: Section 7. The General Assembly shall provide for the selection⁴¹ of a clerk of the supreme court, whose term of office, duties and compensation shall

⁴¹ The word "appointment" was stricken out on second reading and the word "selection" inserted in lieu thereof. *Senate Journal, Seventy-first Assembly, 1919, p. 230.*

be prescribed by law. *Provided*, That any clerk of the supreme court elected prior to or at the time of the ratification of this amendment, shall serve out the term of office for which he shall have been elected.⁴²

590. JOINT RESOLUTION, March 10, 1919:
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

On January 22, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 19 proposing an amendment to section 8 of Article VIII of the Constitution. The proposed amendment was designed to provide for the appointment instead of the election of the state superintendent of public instruction. This resolution was read the first time on January 22 and was referred to the Committee on Constitutional Revision. On February 6 the committee brought out a divided report; the minority report, signed by Joseph M. Cravens (Dem.) and Glenn Van Auken (Dem.), recommended that the resolution be indefinitely postponed; the majority report, signed by William E. English (Rep.), Walter McConaha (Rep.), Curtis D. Meeker (Rep.), Donald P. Strode (Rep.), and Paul Maier (Rep.), recommended the passage of the resolution after amendment. On the question of substituting the minority for the majority report, the vote was 17-30. Of the 17 votes cast in favor of indefinite postponement, 14 were cast by Democrats and 3 by Republicans; of the 30 votes cast in favor of the passage of the resolution after amendment, all were Republicans. On February 10 the resolution was read the second time, whereupon Oscar Ratts (Rep.) moved to strike out the word "appointment" and insert in lieu thereof the word "selection." This motion was defeated by a vote of 21-24. Of the 21 votes cast in favor of the amendment, 14 were cast by Democrats and 7 by Republicans; of the 24 votes cast in opposition to the amendment, all were by Republicans. Upon the disposition of this amendment, Edward P. Elsner (Dem.) moved to substitute the following in lieu of the amendment as it then read:⁴³

Senate Journal, Seventy-first Assembly, 1919, p. 284:

Section 8. The State Board of Education shall appoint a Superintendent of Public Instruction and prescribe the term of office and fix the compensation.

⁴² In the General Assembly of 1921, this amendment was incorporated in Senate Joint Resolution No. 12. See Document No. 628.

⁴³ As originally introduced this resolution was identical with Senate Joint Resolution No. 6, introduced earlier in this session. See Document No. 577 for complete text.

The proposed amendment of Senator Elsner was defeated and the resolution passed to engrossment. On February 12 the resolution was read the third time, passed by a vote of 30-15, and was referred to the House. Of the 30 affirmative votes, all were cast by Republicans; of the 15 negative votes, 12 were cast by Democrats and 3 by Republicans.

The resolution was received by the House on February 13, was read the first time and referred to the Committee on Elections. On February 15 the committee brought out a divided report; the majority report, recommending passage, was signed by 7 Republicans, and the minority report, recommending indefinite postponement, was signed by 3 Democrats; the majority report was adopted by the House. On February 19 the resolution was read the second time and ordered engrossed; on March 5 it was read the third time, passed by a vote of 63-16, and was returned to the Senate. Of the 63 affirmative votes, 62 were cast by Republicans and 1 by a Democrat; of the 16 negative votes, 10 were cast by Democrats and 6 by Republicans. The resolution was approved by the governor on March 10.

Laws of Indiana, 1919, p. 859:

CHAPTER 250.

A JOINT RESOLUTION to amend section eight (8) of article eight (VIII) of the Constitution of the State of Indiana, relating to the office of State Superintendent of Public Instruction.

[S. 19. Approved March 10, 1919.]

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana*, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the seventy-first (71st) General Assembly of the State of Indiana, and is referred to the next General Assembly of the state for reconsideration and agreement.

SEC. 2. That section eight (8) of article eight (VIII) of the Constitution of the State of Indiana be amended to read as follows: Section 8. The General Assembly shall provide for the appointment of a state superintendent of public instruction, whose term of office, duties and compensation shall be prescribed by law: *Provided*, That any state superintendent of public instruction

elected prior to or at the time of the ratification of this amendment, shall serve out the term for which he shall have been elected.⁴⁴

591. JOINT RESOLUTION, March 10, 1919:
REGISTRATION OF VOTERS

On January 22, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 20 proposing an amendment to section 14 of Article II of the Constitution.⁴⁵ The proposed amendment was designed to authorize the General Assembly to classify counties, cities, townships, and towns for the purpose of providing for the registration of voters. This resolution was read the first time on January 22 and was referred to the Committee on Constitutional Revision. On January 31 the committee brought out a divided report, but before any action was taken thereon, the minority report was withdrawn. The majority report recommending passage with detailed amendments was adopted.⁴⁶ On February 3 the resolution was read the second time and ordered engrossed; on February 5 it was read the third time, amended, passed by a vote of 43-0, and was referred to the House.

The resolution was received by the House on February 5, was read the first time and referred to the Committee on Elections; on February 27 it was reported for passage and concurred in; on March 4 it was read the second time and ordered engrossed; on March 6 it was read the third time, passed by a vote of 88-0, and was transmitted to the Senate. The resolution was approved by the governor on March 10.

Laws of Indiana, 1919, p. 855:

CHAPTER 246.

A JOINT RESOLUTION to amend section fourteen (14) of article two (II) of the Constitution of the State of Indiana by authorizing the classification of the counties, townships, cities and towns of the state for the purpose of providing for the registration of persons entitled to vote.

[S. 20. Joint Resolution. Approved March 10, 1919.]

⁴⁴ The proviso was amended by report of the committee. *Senate Journal*, Seventy-first Assembly, 1919, p. 258. In the General Assembly of 1921, this amendment was incorporated in Senate Joint Resolution No. 15. See Document No. 631.

⁴⁵ As originally introduced this amendment was identical with the amendment proposed earlier in the session by Senate Joint Resolution No. 7. See Document No. 578 for text of the amendment as introduced.

⁴⁶ The amendments made changed the text of the amendment to read as it was finally passed.

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana*, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this, the seventy-first (71st) General Assembly of the State of Indiana, and is referred to the next General Assembly of the state for reconsideration and agreement.

SEC. 2. That section fourteen (14) of article two (II) of the Constitution of the State of Indiana be amended to read as follows: Section 14. All general elections shall be held on the first Tuesday after the first Monday in November; but township elections may be held at such time as may be provided by law: *Provided*, That the General Assembly may provide by law for the election of all judges of courts of general or appellate jurisdiction, by an election to be held for such officers only, at which time no other officer shall be voted for; and may also provide for the registration of all persons entitled to vote. In providing for the registration of persons entitled to vote, the General Assembly shall have power to classify the several counties, townships, cities and towns of the state into classes, and to enact laws prescribing a uniform method of registration in any or all of such classes.⁴⁷

592. JOINT RESOLUTION, March 10, 1919: TAXATION

On January 22, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 21 proposing an amendment to section 1 of Article X of the Constitution.⁴⁸ The proposed amendment was designed to confer on the General Assembly more authority relative to taxation. This resolution was read the first time on January 22 and was referred to the Committee on Constitutional Revision. As originally introduced the proposed amendment was as follows:

Senate Journal, Seventy-first Assembly, 1919, p. 113:

Section 1. The General Assembly shall provide by law for the assessment of property for taxation and the

⁴⁷ In the General Assembly of 1921, this amendment was incorporated in Senate Joint Resolution No. 6. See Document No. 622.

⁴⁸ See Document No. 579.

raising of revenue thereby, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious or charitable purposes, as may be specially exempted by law. In thus enacting laws for the assessment of property for taxation, the General Assembly shall have power to classify the several kinds of property subject to taxation and to levy a tax on each class of property at such rate as it may deem wise and equitable without regard to the rate applied to other classes of property, but all taxes shall be uniform upon the same class of subjects, within the territorial limits of the authority levying the tax.

On January 31 the committee brought out a divided report. The minority report, signed by two Democratic members, recommended indefinite postponement; the majority report, signed by five Republican members, recommended amendment and passage.⁴⁹ The majority report was concurred in. On February 3 the resolution was read the second time and ordered engrossed; on February 7 it was read the third time, passed by a vote of 33-12, and referred to the House. Of the 33 affirmative votes, 31 were cast by Republicans and 2 by Democrats; all of the negative votes were cast by Democrats.

The resolution was received by the House on February 10 and was referred to the Committee on Judiciary B; on February 14 it was reported for passage and concurred in; on February 19 the resolution was read the second time, amended, and ordered engrossed. The amendment, which was proposed by Winfield Miller (Rep.), struck out the entire section and substituted therefor the following:

House Journal, Seventy-first Assembly, 1919, p. 444:

The general assembly shall enact laws for taxation.

On March 5 the resolution was read the third time, passed by a vote of 73-0,⁵⁰ and was transmitted to the Senate. The resolution was received by the Senate on March 7; the Senate refused to concur in the House amendment and directed the appointment of a

⁴⁹ The committee amendment changed the text to read as it was finally adopted.

⁵⁰ The vote is given in the *House Journal* as 74-0, but the names listed total 73-0.

conference committee. The conferees appointed from the Senate were William E. English (Rep.) and Austin Retherford (Dem.) and the House conferees were John W. Morgan and Isaac L. Wimmer, both Republicans. The conference committee recommended that the wording of the resolution be restored to the form in which it passed the Senate and both houses concurred in the report. The resolution was approved by the governor on March 10.

Laws of Indiana, 1919, pp. 860-61:

CHAPTER 252.

A JOINT RESOLUTION to amend section one (1), article ten (X) of the Constitution of the State of Indiana, by providing for the classification of property for purposes of taxation.

[S. 21. Joint Resolution. Approved March 10, 1919.]

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana*, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this, the seventy-first (71st) General Assembly of the State of Indiana, and is referred to the next General Assembly of the State for reconsideration and agreement.

SEC. 2. That section one (1) of article ten (X) of the Constitution of the State of Indiana be amended to read as follows: Section 1. The General Assembly shall provide by law for a system of taxation.⁵¹

593. JOINT RESOLUTION, March 10, 1919: VETO OF ITEMS IN APPROPRIATION BILLS

On January 22, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 22 proposing an amendment to section 14 of Article V of the Constitution.⁵² The proposed amendment was designed to authorize the governor to veto items in appropriation bills. This resolution was read the first time on January 22 and was referred to the Committee on Constitutional Revision. On January 31 the committee brought out a divided report. The minority report, signed by two Democratic members, recommended indefinite postponement; the majority report, signed

⁵¹ In the General Assembly of 1921, this amendment was incorporated in Senate Joint Resolution No. 16. See Document No. 632.

⁵² As originally introduced this amendment was identical with the amendment proposed earlier in the session by Senate Joint Resolution No. 9. See Document No. 580 for text as introduced.

by 5 Republican members, recommended passage with an amendment.⁵³ The vote on the adoption of the minority report for indefinite postponement was 13-21, and the majority report was thereupon concurred in. Those voting in favor of indefinite postponement were all Democrats and those voting in favor of passage were all Republicans. On February 3 the resolution was read the second time and ordered engrossed; on February 6 the resolution was read the third time and placed upon its passage. At this juncture Joseph M. Cravens (Dem.) moved that the resolution be indefinitely postponed, but the motion was lost by a vote of 13-30. All of the votes cast against indefinite postponement were cast by Republicans, and all of the votes cast in favor were cast by Democrats. The resolution was then passed by a vote of 30-12 and was referred to the House. All of the votes cast in favor of passage were cast by Republicans, and all of the votes cast in opposition were cast by Democrats.

The resolution was received by the House on February 6, was read the first time, and referred to the Committee on Ways and Means; on February 14 it was reported for passage and concurred in; on February 19 it was read the second time and ordered engrossed; on March 5 it was read the third time, passed by a vote of 60-14,⁵⁴ and was returned to the Senate. Of the 60 affirmative votes, 58 were cast by Republicans and 2 by Democrats; of the 14 negative votes, 10 were cast by Democrats and 4 by Republicans. The resolution was approved by the governor on March 10.

Laws of Indiana, 1919, pp. 857-59:

CHAPTER 249.

A JOINT RESOLUTION to amend section fourteen (14) of article five (V) of the Constitution of the State of Indiana by authorizing the Governor to veto items in bills making appropriations of money.

[S. 22. Joint Resolution. Approved March 10, 1919.]

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this, the seventy-first (71st) General Assembly of the State of Indiana and is referred*

⁵³ The committee amendments changed the text of the amendment to the form in which it was finally adopted.

⁵⁴ The vote is given in the *House Journal* as 63-15, but the names listed total 60-14.

to the next General Assembly of the state for reconsideration and agreement.

SEC. 2. That section fourteen (14) of article five (V) of the Constitution of the State of Indiana be amended to read as follows: Section 14. Every bill which shall have passed the General Assembly shall be presented to the Governor; if he approve, he shall sign it, but if not, he shall return it, with his objections, to the house in which it shall have originated, which house shall enter the objections at large upon its journals, and proceed to reconsider the bill. If, after such reconsideration, a majority of all the members elected to that house shall agree to pass the bill, it shall be sent, with the Governor's objections, to the other house, by which it shall likewise be reconsidered, and, if approved by a majority of all the members elected to that house, it shall be a law. If any bill shall not be returned by the Governor within three days, Sundays excepted, after it shall have been presented to him, it shall be a law without his signature, unless the general adjournment shall prevent its return, in which case it shall be a law, unless the Governor, within five days next after such adjournment, shall file such bill, with his objections thereto, in the office of the Secretary of State, who shall lay the same before the General Assembly at its next session in like manner as if it had been returned by the Governor. But no bill shall be presented to the Governor within two days next previous to the final adjournment of the General Assembly. The Governor shall have power to approve or disapprove any item or items of any bill making appropriations of money, embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriation disapproved shall be void unless repassed according to the rules and limitations prescribed in this section for the passage of bills over the executive veto. In case the Governor shall disapprove any item or items of any bill making appropriations of money, he shall append to the bill, at the time of

signing it, a statement of the item or items which he declines to approve, together with his reasons therefor. If the General Assembly be in session, the Governor shall transmit to the house in which the bill shall have originated a copy of each of such items separately, together with his objections appended to each of such items, and the item or items so objected to shall be separately reconsidered in the same manner as bills which have been passed by the General Assembly and disapproved by the Governor, and if on reconsideration such items or any of them shall be approved by a majority of all the members elected to each house, the same shall be a part of the law notwithstanding the objections of the Governor.⁵⁵

594. JOINT RESOLUTION, March 10, 1919: STATE BUDGET

On January 22, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 23 proposing an amendment to Article IV of the Constitution by adding thereto a new section to be designated as section 31.⁵⁶ The proposed amendment was designed to establish an executive budget for the state. This resolution was read the first time on January 22 and was referred to the Committee on Constitutional Revision. On January 31 the committee brought out a divided report. The minority report, signed by two Democratic members, recommended indefinite postponement; the majority report, signed by five Republican members, recommended amendment and passage. The minority report was rejected by a vote of 14-30, and the majority report was thereupon concurred in. Of the 14 votes for indefinite postponement, 13 were cast by Democrats and 1 by a Republican; of the 30 votes against indefinite postponement, all were cast by Republicans. On February 3 the resolution was read the second time and ordered engrossed; on February 6 it was read the third time, passed by a vote of 30-13, and was referred to the House. Of the 30 affirmative votes, all were cast by Republicans; of the 13 negative votes, all were cast by Democrats.

The resolution was read the first time in the House on February 7 and was referred to the Committee on Ways and Means; on February 28 it was reported for passage with an amendment

⁵⁵ In the General Assembly of 1921, this amendment was incorporated in Senate Joint Resolution No. 9. See Document No. 625.

⁵⁶ As originally introduced this amendment was identical with the amendment proposed earlier in the session by Senate Joint Resolution No. 10. See Document No. 581 for text of Sub-Section D of amendment as introduced.

and concurred in; on March 5 it was read the second time and ordered engrossed; on March 6 it was read the third time, passed by a vote of 75-16, and was returned to the Senate. Of the 75 affirmative votes, 74 were cast by Republicans and 1 by a Democrat; of the 16 negative votes, all were cast by Democrats.

Laws of Indiana, 1919, pp. 861-65:

CHAPTER 253.

A JOINT RESOLUTION to amend article four (IV) of the Constitution of the State of Indiana by adding thereto a new section to be numbered section thirty-one (31), relating to an executive budget.

[S. 23. Joint Resolution. Approved March 10, 1919.]

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana*, That the following amendment is hereby proposed and agreed to by this the seventy-first (71st) General Assembly of the State of Indiana and is referred to the next General Assembly of the state for reconsideration and agreement.

SEC. 2. That article four (IV) of the Constitution of the State of Indiana be amended by adding thereto a new section to be designated and numbered as section thirty-one (31) to read as follows: Section 31. The General Assembly shall not appropriate any money out of the treasury except in accordance with the following provisions:

SUB-SECTION A.

Every appropriation bill shall be either a budget bill, or a supplementary appropriation bill, as hereinafter mentioned.

SUB-SECTION B.

First. Within ten days after the convening of the General Assembly, except in the case of a newly elected Governor, and then within fifteen days after his inauguration, unless such time shall be extended by the General Assembly for the session at which the budget is to be submitted, the Governor shall submit to the General Assembly two budgets, one for each of the ensuing fiscal

years. Each budget shall contain a complete plan for proposed expenditures and estimated revenues for the particular fiscal year to which it relates; and shall show the estimated surplus or deficit of revenues at the end of such year. Accompanying each budget shall be a statement showing: (1) the revenues and expenditures for each of the two fiscal years next preceding; (2) the current assets, liabilities, reserves and surplus or deficit of the state; (3) the debts and funds of the state; (4) an estimate of the state's financial condition as of the beginning and end of each of the fiscal years covered by the two budgets above provided; (5) any explanation the Governor may desire to make as to the important features of any budget and any suggestions as to methods for the reduction or increase of the state's revenue.

Second. Each budget shall be divided into two parts, and the first shall be designated "governmental appropriations" and shall embrace an itemized estimate of the appropriations; (1) for the General Assembly as certified to the Governor in the manner hereinafter provided; (2) for the executive department; (3) for the judiciary department as certified to the Governor by the Auditor of State; (4) to pay and discharge the principal and interest of any debt of the State of Indiana created in conformity with the constitution, and all laws enacted in pursuance thereof; (5) for the salaries payable by the state under the Constitution and laws of the state; (6) for the aid of public schools or higher institutions of learning in conformity with the Constitution and the laws of the state; (7) for such other purposes as are set forth in the Constitution and laws made in pursuance thereof.

Third. The second part shall be designated "general appropriation," and shall include all other estimates of appropriations.

The Governor shall deliver to the presiding officer of each house the budgets and a bill for all the proposed appropriations of the budgets clearly itemized and classified; and the presiding officer of each house shall

promptly cause said bill to be introduced therein, and such bill shall be known as the "budget bill." The Governor may, before final action thereon by the General Assembly, amend or supplement either of said budgets to correct an oversight or in case of an emergency, with the consent of the General Assembly, by delivering such an amendment or supplement to the presiding officer of each house; and such amendment or supplement shall thereby become a part of said budget bill as an addition to the items of said bill or as a modification of or a substitute for any item of said bill such amendment of [or] supplement may affect.

The General Assembly shall not amend the budget bill so as to affect any lawful obligation of the state contracted in pursuance of any provision of the Constitution or the laws enacted in pursuance thereof, or so as to create a deficit but may amend the bill by increasing or diminishing the items therein relating to the General Assembly, and by increasing the items therein relating to the judiciary, but, except as hereinbefore specified, may not alter the said bill except to strike out or reduce items therein; *Provided, however,* That the salary or compensation of any public officer shall not be increased or diminished during his term of office.

Fourth. The Governor and such representatives of the executive departments, boards, officers and commissions of the state expending or applying for state's money, as have been designated by the Governor for this purpose, shall have the right, and when requested by either house of the General Assembly, or any duly authorized committee of either house, it shall be their duty to appear⁵⁷ and be heard with respect to any budget

⁵⁷ The Senate committee amendment, which was concurred in by the Senate, struck out the words "or any duly authorized committee of either House." There is no evidence that this language was ever restored by action of either house, but it appears in the amendment as finally adopted. The amendment further inserted the words "Before such House or any duly authorized committee of such House," after the word "appear." This language does not appear in the resolution as finally adopted.

bill during the consideration thereof and to answer inquiries relative thereto.

SUB-SECTION C.

Neither house shall consider other appropriations until the budget bill has been finally acted upon by both houses, and no such other appropriations shall be valid except in accordance with the provisions following:

(1) Every such appropriation shall be embodied in a separate bill limited to some single work, object or purpose therein stated and called herein a supplementary appropriation bill; (2) each supplementary appropriation bill shall provide the revenue necessary to pay the appropriation thereby made by a tax, direct or indirect to be laid and collected as shall be directed in said bill, unless it appears from such budget that there is sufficient revenue available; (3) no supplementary appropriation bill shall become a law unless it be passed in each house by a vote of the majority of all the members elected to each house and the yeas and nays recorded on its final passage; (4) each supplementary appropriation bill shall be presented to the Governor of the state as provided in section fourteen of article five of the Constitution and thereafter all the provisions of said section shall apply.

Nothing in this amendment shall be construed as preventing the General Assembly from passing at any time, in accordance with the provisions of section twenty-five (25) of article four (IV) of the Constitution, and subject to the Governor's power of approval as provided in section (14) of article five (V) of the Constitution, an appropriation bill to provide for the payment of any obligation of the State of Indiana within the protection of section 10 article 1 of the Constitution of the United States.

SUB-SECTION D.

First. If the budget bill shall not have been finally acted upon by the General Assembly three days before

the expiration of its regular session, the Governor may, and it shall be his duty to issue a proclamation extending the session for such further period as may, in his judgment, be necessary for the passage of such bill; but no other matter than such bill shall be considered during such extended session except a provision for the cost thereof.⁵⁸

Second. The Governor, for the purpose of making up his budgets, shall have the power, and it shall be his duty, to require from the proper state officials, including herein all executive departments, all executive and administrative officers, bureaus, boards, commissions and agencies expending or supervising the expenditure of, and institutions applying for state moneys and appropriations, such itemized estimates and other information, in such form and at such time as he shall direct. The estimates for the legislative department, certified by the presiding officer of each house, of the judiciary, as certified by the Auditor of State, and for the public schools or higher institutions of learning as certified by the State Superintendent of Public Instruction or the administrative head of such institution shall be transmitted to the Governor in such form and at such time as he shall direct and shall be included in the budget.

The Governor may provide for public hearings on all estimates and may require the attendance at such hearings of representatives of all agencies, and all institutions applying for state moneys. After such public hearings, he may, in his discretion, revise all estimates except those for the legislative and judiciary departments, and for the public schools as provided by law.

Third. The General Assembly may, from time to time, enact such laws, not inconsistent with this section, as may be necessary and proper to carry out its provisions.

⁵⁸ The House amendment struck out the sentence, "Members of the General Assembly shall serve without pay during said extended session," which appeared in the original resolution after the word "thereof."

Fourth. In the event of an inconsistency between any of the provisions of this section and any of the other provisions of the Constitution, the provisions of this section shall prevail. But nothing herein shall be construed as preventing the Governor from calling special sessions of the legislature as provided by section 9 of article IV, or as preventing the General Assembly at such special sessions from considering any emergency appropriation or appropriations.

If any item of any appropriation bill passed under the provisions of this section shall be held invalid upon any ground, such invalidity shall not affect the legality of the bill or of any other item of such bill or bills.⁵⁹

595. JOINT RESOLUTION, March 10, 1919: TERMS OF STATE OFFICERS

On January 22, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 24 proposing an amendment to section 1 of Article VI of the Constitution.⁶⁰ The proposed amendment was designed to fix the terms of state officers at four years. This resolution was read the first time on January 22 and was referred to the Committee on Constitutional Revision; on January 23 it was reported for passage and concurred in; on January 30 it was read the second time and ordered engrossed; on February 3 it was recommitted to the Committee on Constitutional Revision for further consideration; on February 5 the resolution was reported for passage with amendments and concurred in;⁶¹ on February 7 it was read the third time, passed by a vote of 43-0, and was referred to the House.

The resolution was received by the House on February 10, was read the first time and referred to the Committee on Judiciary A; on February 18 it was reported for passage and concurred in; on February 25 it was read the second time and ordered engrossed; on March 5 it was read the third time, passed by a vote of 77-0, and was transmitted to the Senate. The resolution was approved by the governor on March 10.

⁵⁹ In the General Assembly of 1921, this amendment was incorporated in Senate Joint Resolution No. 8. See Document No. 624.

⁶⁰ As originally introduced this amendment was identical with the amendment proposed earlier in the session by Senate Joint Resolution No. 11. See Document No. 582 for text of the amendment as introduced.

⁶¹ The amendments made by the committee changed the text of the amendment to read as it was finally adopted.

Laws of Indiana, 1919, p. 860:

CHAPTER 251.

A JOINT RESOLUTION to amend section one (1), article six (VI) of the Constitution of the State of Indiana, by providing that terms of state officers shall be four years.

[S. 24. Joint Resolution. Approved March 10, 1919.]

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana*, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this, the seventy-first (71st) General Assembly of the State of Indiana, and is referred to the next General Assembly of the state for reconsideration and agreement.

SEC. 2. That section (1), article six (VI), of the Constitution of the State of Indiana be amended to read as follows: Section 1. There shall be elected by the voters of the state a secretary, an auditor and a treasurer of state, said officers, and all other state officers created by the General Assembly and to be elected by the people, except judges, shall severally hold their offices for four years. They shall perform such duties as may be enjoined by law; and no person other than judges shall be eligible to any one of said offices for more than four years in any period of eight years.⁶²

596. JOINT RESOLUTION, February 15, 1919:

TERMS OF COUNTY OFFICERS

On January 22, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 25 proposing an amendment to section 2 of Article VI of the Constitution.⁶³ The proposed amendment was designed to fix the terms of county officers at four years. This resolution was read the first time on January 22 and was referred to the Committee on Constitutional Revision; on January 23 it was reported for passage with an amendment and concurred in. The proposed amendment eliminated the word "sur-

⁶² In the General Assembly of 1921, this amendment was incorporated in Senate Joint Resolution No. 10. See Document No. 626.

⁶³ As originally introduced this amendment was identical with the amendment proposed earlier in the session by Senate Joint Resolution No. 12. See Document No. 583 for text of the amendment as introduced.

veyor" from the resolution. On January 30 the resolution was read the second time and ordered engrossed; on February 3 it was read the third time, passed by a vote of 33-11, and was referred to the House. Of the 33 affirmative votes, 27 were cast by Republicans and 6 by Democrats; of the 11 negative votes, 10 were cast by Democrats and 1 by a Republican.

The resolution was received by the House on February 4, was read the first time and referred to the Committee on Judiciary A; on February 5 it was reported for passage and concurred in; on February 8 it was read the second time and ordered engrossed; on February 11 it was read the third time, passed by a vote of 89-1,⁶⁴ and returned to the Senate. The resolution was approved by the governor on February 15.

Laws of Indiana, 1919, pp. 850-51:

CHAPTER 240.

A JOINT RESOLUTION to amend section two (2), article six (VI) of the Constitution of the State of Indiana by providing that terms of county officers shall be four years.

[S. 25. Joint Resolution. Approved February 15, 1919.]

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this, the seventy-first General Assembly of the State of Indiana, and is referred to the next General Assembly of the state for reconsideration and agreement.*

SEC. 2. That section two (2), article six (VI) of the Constitution of the State of Indiana be amended to read as follows:

Section 2. There shall be elected in each county by the voters thereof at the time of holding general elections a clerk of the circuit court, auditor, recorder, treasurer, sheriff, and coroner, who shall severally hold their offices for four years; and no person shall be eligible to either of said offices for more than four years in any period of eight years.⁶⁵

⁶⁴ The vote is given in the *House Journal* as 90-1, but the names listed total 89-1.

⁶⁵ In the General Assembly of 1921, this amendment was incorporated in Senate Joint Resolution No. 11. See Document No. 627.

597. JOINT RESOLUTION, February 20, 1919:
PROSECUTING ATTORNEYS

On January 22, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 26 proposing an amendment to section 11 of Article VII of the Constitution.⁶⁶ The proposed amendment was designed to fix the terms of prosecuting attorneys at four years. This resolution was read the first time on January 22 and was referred to the Committee on Constitutional Revision; on January 23 it was reported for passage and concurred in; on January 30 it was read the second time and ordered engrossed; on February 3 it was read the third time, passed by a vote of 32-11, and referred to the House. Of the 32 affirmative votes, 28 were cast by Republicans and 4 by Democrats; all of the negative votes were cast by Democrats.

The resolution was read the first time in the House on February 4 and was referred to the Committee on Judiciary B; on February 8 it was reported for passage and concurred in; on February 15 it was read the second time and ordered engrossed; on February 18 it was read the third time, passed by a vote of 87-1,⁶⁷ and was returned to the Senate. The resolution was signed by the governor on February 20.

Laws of Indiana, 1919, p. 851:

CHAPTER 241.

A JOINT RESOLUTION to amend section eleven (11), article seven (VII), of the Constitution of the State of Indiana, by extending the terms of prosecuting attorneys to four years.

[S. 26. Joint Resolution. Approved February 20, 1919.]

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana*, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this, the seventy-first (71st) General Assembly of the State of Indiana, and is referred to the next General Assembly of the state for reconsideration and agreement.

SEC. 2. That section eleven (11), article seven (VII), of the Constitution of the State of Indiana be amended to read as follows: Section 11. There shall be elected in

⁶⁶ This amendment is identical with the amendment proposed earlier in the session by Senate Joint Resolution No. 13. See Document No. 584.

⁶⁷ The vote is given in the *House Journal* as 88-1, but the names listed total 87-1.

each judicial circuit, by the voters thereof, a prosecuting attorney, who shall hold his office for four years.⁶⁸

598. JOINT RESOLUTION, February 15, 1919:
QUALIFICATIONS FOR PRACTICE OF LAW

On January 22, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 27 proposing an amendment to section 21 of Article VII of the Constitution.⁶⁹ The proposed amendment was designed to authorize the General Assembly to prescribe the qualifications necessary to be admitted to the practice of law. This resolution was read the first time on January 22 and was referred to the Committee on Constitutional Revision; on January 23 it was reported for passage and concurred in; on January 30 it was read the second time and ordered engrossed; on February 3 it was read the third time, passed by a vote of 44-0,⁷⁰ and was referred to the House. The resolution was read the first time in the House on February 4 and was referred to the Committee on Judiciary A; on February 5 it was reported for passage and concurred in; on February 8 it was read the second time and ordered engrossed; on February 11 it was read the third time, passed by a vote of 93-2,⁷¹ and returned to the Senate. The resolution was approved by the governor on February 15.

Laws of Indiana, 1919, p. 850:

CHAPTER 239.

A JOINT RESOLUTION to amend section twenty-one (21), article seven (VII) of the Constitution of the State of Indiana, relating to the qualifications of persons admitted to practice of the law.

[S. 27. Joint Resolution. Approved February 15, 1919.]

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana*, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this, the seventy-first (71st) General Assembly of the State of Indiana, and is referred

⁶⁸ In the General Assembly of 1921, this amendment was incorporated in Senate Joint Resolution No. 13. See Document No. 629.

⁶⁹ This amendment is identical with the amendment proposed earlier in the session by Senate Joint Resolution No. 14. See Document No. 585.

⁷⁰ The vote is given in the *Senate Journal* as 45-0, but the names listed total 44-0.

⁷¹ The vote is given in the *House Journal* as 95-2, but the names listed total 93-2.

to the next General Assembly of the state for reconsideration and agreement.

SEC. 2. That section twenty-one (21), article seven (VII), of the Constitution of the State of Indiana be amended to read as follows:

Section 21. The General Assembly may by law provide for the qualifications of persons admitted to the practice of the law.⁷²

599. JOINT RESOLUTION: JUDGES OF SUPREME COURT

On January 22, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 28 proposing an amendment to section 2 of Article VII of the Constitution.⁷³ The proposed amendment was designed to fix the number of judges of the Indiana Supreme Court at not to exceed thirteen, to enable the court to sit in divisions or *en banc* in the consideration of cases, and to authorize the General Assembly to fix the terms of judges at not more than twelve years. This resolution was read the first time on January 22 and was referred to the Committee on Constitutional Revision; on January 23 it was reported for passage and concurred in; on January 30 it was read the second time and ordered engrossed; on February 3 it was read the third time, passed by a vote of 37-10, and was referred to the House. Of the 37 affirmative votes, 29 were cast by Republicans and 8 by Democrats; of the 10 negative votes, 8 were cast by Democrats and 2 by Republicans.

The resolution was read the first time in the House on February 4 and was referred to the Committee on Judiciary A; on February 5 it was reported for passage and concurred in; on February 8 it was read the second time and ordered engrossed; on February 11 it was handed down for third reading. While the resolution was pending on third reading, William R. Jinnett (Rep.) moved that it be recommitted to a committee of one with instructions to strike out the word "thirteen" and to insert in lieu thereof the word "seven." This motion was laid on the table. The resolution was then placed upon its passage and was defeated by a vote of 34-61. Of the 34 affirmative votes, 31 were cast by Republicans and 3 by Democrats; of the 61 negative votes, 48 were cast by Republicans and 13 by Democrats.

⁷² In the General Assembly of 1921, this amendment was incorporated in Senate Joint Resolution No. 14. See Document No. 630.

⁷³ This amendment is identical with the amendment proposed earlier in the session by Senate Joint Resolution No. 15. See Document No. 586.

Senate Journal, Seventy-first Assembly, 1919, pp. 118-19:

A joint resolution to amend section two (2), article seven (VII), of the Constitution of the State of Indiana, relating to the judges of the Supreme Court.

Section 1. Be it resolved by the General Assembly of the State of Indiana, that the following amendment to the Constitution of the State of Indiana, is hereby proposed and agreed to by this, the Seventy-first (71st) General Assembly of the State of Indiana, and is referred to the next General Assembly of the State for reconsideration and agreement.

Section 2. That section two (2) article seven (VII) of the Constitution of the State of Indiana be amended to read as follows:

Section 2. The Supreme Court shall consist of not fewer than three nor more than thirteen judges; for the purpose of hearing cases, such judges may be divided by the General Assembly into groups, of not less than three each, but the concurrence of a majority of such court shall be necessary for the decision of all cases. The term of office of such judges shall be fixed by the General Assembly, and such term shall not be less than six nor more than twelve years, and such judges shall be permitted to serve for the term [for] which they were elected if they so long behave well.

600. JOINT RESOLUTION, March 10, 1919: INCOME TAX

On January 22, 1919 Senator Oscar B. Smith (Rep.) introduced Senate Joint Resolution No. 29 proposing an amendment to Article X of the Constitution by adding thereto a new section to be designated section 8. The proposed amendment was designed to authorize the General Assembly to levy and collect taxes on incomes. This resolution was read the first time on January 22 and was referred to the Committee on Constitutional Revision; on January 29 it was reported back without recommendation, read the second time, and ordered engrossed; on February 11 it was read the third time, passed by a vote of 30-1, and was referred to the House.

The resolution was received by the House on February 12, read the first time and referred to the Committee on Judiciary A;

on February 15 it was reported for passage and concurred in; on February 19 it was read the second time and ordered engrossed; on March 5 it was read the third time, passed by a vote of 74-1, and was returned to the Senate. The resolution was approved by the governor on March 10.

Laws of Indiana, 1919, p. 856:

CHAPTER 247.

A JOINT RESOLUTION to amend article ten (10) of the constitution of the State of Indiana by adding thereto a new section to be numbered section eight (8), relating to taxes on incomes.

[S. 29. Joint Resolution. Approved March 10, 1919.]

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana*, That the following amendment is hereby proposed and agreed to by this the seventy-first (71st) General Assembly of the State of Indiana and is referred to the next General Assembly of the State of Indiana for reconsideration and agreement.

SEC. 2. That article ten (10) of the Constitution of the State of Indiana be amended by adding thereto a new section to be designated and numbered as section eight (8) to read as follows: Section 8. The General Assembly may provide by law for the levy and collection of taxes on incomes and from whatever source derived, in such cases and amounts, and in such manner, as shall be prescribed by law and reasonable exemptions may be provided.⁷⁴

601. JOINT RESOLUTION, March 13, 1919:

QUALIFICATIONS FOR SUFFRAGE

On January 22, 1919 Senator Andrew H. Beardsley (Rep.) introduced Senate Joint Resolution No. 30 proposing an amendment to section 2 of Article II of the Constitution.⁷⁵ The proposed amendment was designed to confer the right of suffrage on women and to restrict the right of suffrage to native-born or fully naturalized citizens. This resolution was read the first time on January 22

⁷⁴ In the General Assembly of 1921, this amendment was incorporated in Senate Joint Resolution No. 17. See Document No. 633.

⁷⁵ This amendment was designed to replace the amendment conferring suffrage on women which was proposed by the General Assembly of 1917 and withdrawn at the beginning of the session of 1919. See Documents Nos. 557 and 573.

and was referred to the Committee on Constitutional Revision. In the resolution originally introduced, the section under discussion read as follows:

Senate Journal, Seventy-first Assembly, 1919, pp. 119-20:

Section 2. In all elections not otherwise provided for by this Constitution, every citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months, and in the township sixty days, and in the ward or precinct thirty days, immediately preceding such election, shall be entitled to vote in the township or precinct where he or she may reside, if he or she shall have been registered according to law.

On January 24 the resolution was reported for passage with an amendment striking out the words, "if he or she shall have been duly registered according to law," where they occur at the end of the resolution. The amendment was concurred in. On January 29 the resolution was read the second time and ordered engrossed; on January 31 it was read the third time, passed by a vote of 44-0, and was referred to the House.

The resolution was received by the House on January 31, was read the first time and was referred to the Committee on Judiciary A; on February 4 it was reported for passage and concurred in; on February 8 it was read the second time and ordered engrossed; on February 10 it was read the third time, passed by a vote of 90-0,⁷⁶ and was returned to the Senate. The resolution was approved by the governor on March 13.

Laws of Indiana, 1919, pp. 867-68:

CHAPTER 256.

A JOINT RESOLUTION proposing an amendment to section two (2), article two (II) of the Constitution of the State of Indiana.

[S. 30. Joint Resolution. Approved March 13, 1919.]

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana*, That the following amendment to the Constitution of the State of Indiana be and is hereby proposed and agreed, by this, the seventy-first (71st) General Assembly of the state for consideration and agreement.

⁷⁶ The vote is given in the *House Journal* as 91-0, but the names listed total 90-0.

SEC. 2. That section two (2) article two (II) of the Constitution of the State of Indiana be amended to read as follows:

In all elections not otherwise provided for by this Constitution, every citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the state during the six months, and in the township sixty days, and in the ward or precinct thirty days immediately preceding such election, shall be entitled to vote in the township or precinct where he or she may reside.⁷⁷

602. JOINT RESOLUTION, February 15, 1919:

TERMS AND SALARIES OF PUBLIC OFFICERS

On January 22, 1919 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 31 proposing an amendment to section 2 of Article XV of the Constitution.⁷⁸ The proposed amendment was designed to prohibit increases in the salaries of, and extension of the terms of public officials during their tenure of office. This resolution was read the first time on January 22 and was referred to the Committee on Constitutional Revision; on January 23 it was reported for passage and concurred in; on January 30 it was read the second time and ordered engrossed; on January 31 it was read the third time, passed by a vote of 36-1, and was referred to the House.

The resolution was received by the House on February 3, read the first time and referred to the Committee on Fees and Salaries; on February 4 it was reported for passage and concurred in; on February 8 it was read the second time and ordered engrossed; on February 11 it was read the third time, passed by a vote of 90-1, and returned to the Senate. The resolution was approved by the governor on February 15.

Laws of Indiana, 1919, p. 849:

CHAPTER 238.

A JOINT RESOLUTION to amend section two (2), article fifteen (XV) of the Constitution of the State of Indiana by providing against increase of terms and salaries of officers during their official terms.

[S. 31. Joint Resolution. Approved February 15, 1919.]

⁷⁷ In the General Assembly of 1921, this amendment was incorporated in Senate Joint Resolution No. 5. See Document No. 621.

⁷⁸ This amendment is identical with the amendment proposed by the General Assembly of 1917 and withdrawn at the beginning of the session of 1919. See Documents Nos. 544 and 573.

SECTION 1. *Be it Resolved by the General Assembly of the State of Indiana*, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this, the seventy-first (71st) General Assembly of the State of Indiana, and is referred to the next General Assembly of the state for reconsideration and agreement.

SEC. 2. That section (2), article fifteen (XV), of the Constitution of the State of Indiana be amended to read as follows:

Section 2. When the duration of any office is not provided for by this Constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the General Assembly shall not create any office, the tenure of which shall be longer than four (4) years, nor shall the term of office or salary of any officer fixed by this Constitution or by law be increased during the term for which such officer was elected or appointed.⁷⁹

603. JOINT RESOLUTION: QUALIFICATIONS FOR SUFFRAGE

On January 22, 1919 Senator Glenn Van Auken (Dem.) introduced Senate Joint Resolution No. 32 proposing an amendment to section 2 of Article II of the Constitution. The proposed amendment was designed to confer the right of suffrage on women and to restrict the right of suffrage to native-born or fully naturalized citizens. This resolution was read the first time on January 22 and was referred to the Committee on Constitutional Revision. As the amendment proposed by this resolution was identical with the amendment proposed by Senate Joint Resolution No. 30 after amendment by the committee, the resolution was never reported from committee.

Senate Journal, Seventy-first Assembly, 1919, p. 120:

A joint resolution to amend section two (2) of article two (II) of the Constitution of the State of Indiana.⁸⁰

⁷⁹ In the General Assembly of 1921, this amendment was incorporated in Senate Joint Resolution No. 19. See Document No. 635.

⁸⁰ See Document No. 601 for complete text of the amendment.

604. JOINT RESOLUTION: REGISTRATION OF VOTERS

On January 22, 1919 Senator Glenn Van Auken (Dem.) introduced Senate Joint Resolution No. 33 proposing an amendment to section 14 of Article II of the Constitution. The proposed amendment was designed to authorize the General Assembly to provide by law for the registration of voters in cities having a population of more than 25,000. This resolution was read the first time on January 22 and was referred to the Committee on Constitutional Revision, but no report on the resolution was ever made by the committee.⁵¹

Senate Journal, Seventy-first Assembly, 1919, p. 121:

A joint resolution to amend section fourteen (14) of article two (II) of the Constitution of the State of Indiana.

Section 1. Be it resolved by the General Assembly of the State of Indiana, That the following proposed amendment to the Constitution of said State be and the same is now agreed to by this, the Seventy-first (71st) General Assembly of the State of Indiana, and is referred to the next General Assembly of the State for its concurrence and agreement.

Section 2. That section 14 of article II of the Constitution of the State of Indiana be amended to read as follows:

Section 14. All general elections shall be held on the first Monday in November; but township elections may be held at such time as may be provided by law: Provided, That the General Assembly may provide by law for the election of judges of courts of general and appellate jurisdiction by an election to be held for such officers only, at which time no other officer shall be voted for. The General Assembly may provide for the registration of voters in cities containing a population of more than twenty-five (25,000) thousand inhabitants according to the last preceding United States census, and when so provided, registration shall be a qualification for voting in such city at all elections.

⁵¹ See Document No. 591.

605. JOINT RESOLUTION: QUALIFICATIONS FOR SUFFRAGE

On January 22, 1919 Senator Glenn Van Auken (Dem.) introduced Senate Joint Resolution No. 34 proposing an amendment to Article II of the Constitution by adding thereto a new section to be designated section 15. The proposed amendment was designed to require the payment of a poll tax and the ability to read the English language as qualifications for voting. This resolution was read the first time on January 22 and was referred to the Committee on Constitutional Revision; on January 29 it was reported without recommendation and was concurred in; on February 6 it was read the second time. While the resolution was pending on second reading, Alfred Hogston (Rep.) offered a motion to strike out all of the proposed amendment from the word "No" to the word "hereof." This was the part of the amendment requiring the payment of a poll tax. This motion was adopted by a vote of 26-19. Of the 26 affirmative votes, 24 were cast by Republicans and 2 by Democrats; of the 19 negative votes, 11 were cast by Democrats and 8 by Republicans. A motion was then offered by Harry E. Negley (Rep.) to insert the words "except a person of defective eyesight" after the word "person" and before the word "shall." The motion was adopted. A motion was then offered by Donald P. Strode (Rep.) to strike out all of the remainder of the amendment. This motion was defeated by a vote of 21-23. Of the 21 affirmative votes, 17 were cast by Republicans and 4 by Democrats; of the 23 negative votes, 9 were cast by Democrats and 14 by Republicans. As the amendment was ordered to engrossment it read as follows:

No person except a person of deficient eyesight shall be entitled to vote at any general, special or municipal election held in the State of Indiana, unless such person shall be able to read in the English language section two (2) of article two (2) of the constitution of the State of Indiana.

No further action was taken on this resolution.

Senate Journal, Seventy-first Assembly, 1919, pp. 121-22:

A joint resolution proposing an amendment of article two (II) of the Constitution of the State of Indiana by adding thereto a further section to be numbered section fifteen (15).

Section 1. Be it resolved by the General Assembly

of the State of Indiana, That the following amendment to the Constitution of the State of Indiana be and is hereby proposed and agreed to by this, the Seventy-first General Assembly of the State of Indiana and the same is referred to the next General Assembly of the State for its concurrence and agreement.

Section 2. That article two (II) of the Constitution of the State of Indiana be amended by adding thereto a further section, to be numbered section fifteen (15) to read as follows:

Section 15. No person shall be entitled to vote at any general, special or municipal election held in the State of Indiana, unless such person shall have paid his or her poll tax due and payable the year of such election, but all poll tax shall be payable in full at the spring payment of taxes and may be paid separately from other taxes at the option of the tax payer: Provided, That such poll tax shall never be fixed at a higher rate than one (\$1.00) dollar and the same shall be levied against all persons entitled to vote under the Constitution of the State of Indiana, excepting voters over the age of fifty (50) years and all honorably discharged soldiers and sailors of the United States, who shall be exempt from the foregoing provision hereof. No person shall be entitled to vote at any general, special or municipal election held in the State of Indiana, unless such person shall be able to read in the English language section two (2) of article two (II) of the Constitution of the State of Indiana.

606. JOINT RESOLUTION: EX PARTE OPINIONS OF SUPREME COURT

On January 31, 1919 Senator Oscar Ratts (Rep.) introduced Senate Joint Resolution No. 35 proposing an amendment to Article VII of the Constitution by adding thereto a new section to be designated as section 22. The proposed amendment was designed to authorize the Indiana Supreme Court to give *ex parte* opinions on the question of the constitutionality of bills pending in the General Assembly.

Senate Journal, Seventy-first Assembly, 1919, p. 211:

A joint resolution to amend the Constitution of the State of Indiana by adding to article seven (VII) an additional section to be numbered 22. When requested so to do by a joint resolution of the General Assembly, approved by the Governor, the Supreme Court shall give its opinion upon important questions of constitutional law, which in the judgment of the General Assembly are of general public concern and which, in the judgment of the General Assembly are involved in any bill pending or any act passed by the General Assembly, requesting such opinion; and all such requests for opinions shall take precedence over other business of the court; and all such opinions shall be published in connection with the reported decisions of the court.

This resolution was read the first time on January 31 and was referred to the Committee on Constitutional Revision; on February 13 it was reported for passage and concurred in; on February 18 it was read the second time, amended, and passed to engrossment. The amendment consisted of striking out the entire resolution after the title and inserting in lieu thereof the following:

Senate Journal, Seventy-first Assembly, 1919, p. 406:

Section 1. Be it Resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the Seventy-first General Assembly of the State of Indiana and is hereby referred to the General Assembly of the State of Indiana to be chosen at the next general election.

Sec. 2. That article seven (VII) of the Constitution of the State of Indiana be amended by adding thereto a new section to be numbered section twenty-two (22), which shall read as follows: Section 22. When requested to do so by a joint resolution of the General Assembly, approved by the Governor, the supreme court shall give its opinion upon important questions of constitutional law, which in the judgment of the General Assembly are of general public concern and which in the judgment

of the General Assembly are involved in any bill pending or any act passed by the General Assembly requesting such opinion; and all such requests for opinions shall take precedence over the business of the court; and all such opinions shall be published in connection with the reported decisions of the court.

On February 25 the resolution was read the third time and failed for want of a constitutional majority, the vote being 24-21. Of the 24 affirmative votes, 21 were cast by Republicans and 3 by Democrats; of the 21 negative votes, 10 were cast by Democrats and 11 by Republicans. On February 28 the resolution was called up for a second vote, passed by a vote of 32-10, and was referred to the House. Of the 32 affirmative votes, 27 were cast by Republicans and 5 by Democrats; of the 10 negative votes, 8 were cast by Democrats and 2 by Republicans.

The resolution was received by the House on February 28, was read the first time and referred to the Committee on Judiciary A. On March 3 the committee recommended the indefinite postponement of the resolution and was sustained by the House.

607. JOINT RESOLUTION: VETO OF BILLS

On February 12, 1919 Senator John S. Alldredge (Rep.) introduced Senate Joint Resolution No. 36 proposing an amendment to section 14 of Article V of the Constitution. The proposed amendment was designed to provide that a vote of three-fifths of each house, instead of a majority, be necessary to pass a bill over the governor's veto. This resolution was read the first time on February 12 and was referred to the Committee on Rights and Privileges. As the committee did not make a report on the resolution, no further action was taken thereon.

Senate Journal, Seventy-first Assembly, 1919, pp. 313-14:

A joint resolution proposing an amendment to section fourteen (14), of article five (V), of the Constitution of the State of Indiana concerning the number of votes necessary to pass a bill over the Governor's veto.

Section 1. Be it Resolved by the General Assembly of the State of Indiana, That the following amendment to section fourteen (14), of article five (V), of the Constitution of the State of Indiana is hereby proposed and agreed to by this, the Seventy-first (71st) General As-

sembly of the State of Indiana, and is referred to the Seventy-second (72nd) General Assembly of the State of Indiana for their consideration and agreement.

Sec. 2. That section fourteen (14) of article five (V) be amended to read as follows: Section 14. Every bill which shall have passed the General Assembly shall be presented to the Governor; if he approve, he shall sign it, but if not, he shall return it, with his objections, to the House in which it shall have originated, which house shall enter the objections at large upon its journals, and shall proceed to reconsider the bill. If, after such consideration, three-fifths of all the members elected to that House shall agree to pass the bill, it shall be sent, with the Governor's objections, to the other House, by which it shall likewise be reconsidered and, if approved by three-fifths of all the members elected to that House, it shall be a law. If any bill shall not be returned by the Governor within three days, Sundays excepted, after it shall have been presented to him, it shall be a law without his signature unless the General Assembly adjournment shall prevent its return, in which case it shall be a law, unless the Governor, within five days next after such adjournment, shall file such bill, with his objection thereto, in the office of the Secretary of State, who shall lay the same before the General Assembly at its next session in like manner as if it had been returned by Governor. But no bill shall be presented to the Governor within two days next previous to the final adjournment of the General Assembly.

608. JOINT RESOLUTION: CHANGE OF VENUE BY STATE

On February 12, 1919 Senator John S. Alldredge (Rep.) introduced Senate Joint Resolution No. 37 proposing an amendment to section 13 of Article I of the Constitution. The proposed amendment was designed to give the state the right of a change of venue in criminal cases. This resolution was read the first time on February 12 and was referred to the Committee on Rights and Privileges. As the committee did not make a report on the resolution, no further action was taken thereon.

Senate Journal, Seventy-first Assembly, 1919, pp. 314-15:

A joint resolution proposing an amendment to section thirteen (13) of article one (I) of the Constitution of the State of Indiana, concerning criminal prosecution and the granting of changes of venue.

Section 1. Be it Resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the Seventy-first (71st) General Assembly of the State of Indiana, and is referred to the Seventy-second (72nd) General Assembly of the State of Indiana for their consideration and agreement.

Sec. 2. That section thirteen (13) article one (I) of the Constitution of the State of Indiana be amended to read as follows: Section 13. In all criminal prosecutions the accused shall have the right to a public trial, by an impartial jury; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor.

The trial of such accused shall be held in the county in which the offense shall have been committed, except when the Attorney-General of the State of Indiana shall deem it impossible to secure an impartial jury to serve in such trial in such county, or when such Attorney-General shall deem it impossible for the State to secure an impartial trial in such county for other causes, in which event the prosecuting attorney in whose district the trial is to be held may show to the court having jurisdiction by affidavit that he believes such matters to be true, and the judge of the court shall grant a change of venue to the most convenient adjoining county. The General Assembly shall enact suitable laws for the carrying out and enforcement of this section.

609. JOINT RESOLUTION: PROSECUTING ATTORNEYS

On February 12, 1919 Senator John S. Alldredge (Rep.) introduced Senate Joint Resolution No. 38 proposing an amendment

to section 8 of Article VI of the Constitution. The proposed amendment was designed to provide for the impeachment and removal of prosecuting attorneys.⁸² This resolution was read the first time on February 12 and was referred to the Committee on Rights and Privileges. As the committee did not make a report on the resolution, no further action was taken thereon.

Senate Journal, Seventy-first Assembly, 1919, p. 315:

A joint resolution proposing an amendment to section 8 of article VI of the Constitution of the State of Indiana by providing for the impeachment and removal of prosecuting attorneys.

Section 1. Be it Resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the Seventy-first (71st) General Assembly of the State of Indiana and is hereby referred to the General Assembly of the State of Indiana to be chosen at the next general election.

Sec. 2. That section 8 of article VI of the Constitution of the State of Indiana be amended to read as follows: Section 8. All state, county, township and town officers and prosecuting attorneys may be impeached or removed from office in such manner as may be prescribed by law.

610. JOINT RESOLUTION: ATTORNEY-GENERAL

On February 15, 1919 John W. Winesburg (Rep.) introduced House Joint Resolution No. 1 proposing an amendment to Article VI of the Constitution by adding thereto a new section to be designated as section 11. The proposed amendment was designed to provide for the appointment of the attorney-general. This resolution was read the first time on February 15 and was referred to the Committee on Judiciary A. On February 25, on recommendation of the committee, the resolution was indefinitely postponed.

Original House Joint Resolution No. 1.

A Joint Resolution proposing an amendment to Article VI of the Constitution of the State of Indiana by

⁸² See *State v. Redman* (1915), 183 *Indiana*, 332.

adding a new section thereto to be numbered Section 11, providing for the appointment of an attorney-general.

SECTION 1. Be it Resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the seventy-first general assembly of the State of Indiana and is hereby referred to the general assembly of the State of Indiana to be chosen at the next general election.

SECTION 2. That article VI of the Constitution of the State of Indiana be amended by adding thereto a new section to be numbered section 11, which shall read as follows: Section 11. There shall be an attorney-general of the state who shall be appointed by the governor and who shall hold his office for a term of four years.

611. JOINT RESOLUTION, March 13, 1919: APPORTIONMENT

On February 24, 1919 Senator Oscar Ratts (Rep.) introduced Senate Joint Resolution No. 41 proposing an amendment to sections 4 and 5 of Article IV of the Constitution. The proposed amendment was designed to base the apportionment of senators and representatives in the General Assembly on the total vote cast for secretary of state instead of the sexennial enumeration of the male inhabitants of the state over 21 years of age. This resolution was read the first time on February 24 and was referred to the Committee on Constitutional Revision; on February 26 it was reported for passage and concurred in; on February 28 it was read the second time and ordered engrossed; on March 3 it was read the third time, passed by a vote of 36-0, and was referred to the House.

The resolution was received by the House on March 3, was read the first time and referred to the Committee on Legislative Apportionment; on March 5 it was reported for passage and concurred in; on March 7 it was read the second time and ordered engrossed; and on March 10 it was read the third time, passed by a vote of 63-14, and was returned to the Senate. Of the 63 affirmative votes, 62 were cast by Republicans and 1 by a Democrat;

of the 14 negative votes, 13 were cast by Democrats and 1 by a Republican. This resolution was approved by the governor on March 13.

Laws of Indiana, 1919, pp. 868-69:

CHAPTER 257.

A JOINT RESOLUTION to amend sections four (4) and five (5) of article four (4) of the Constitution of the State of Indiana, relating to the ascertainment of the number of voters, the number of State Senators and Representatives and the apportionment thereof amongst the counties.

[S. 41. Joint Resolution. Approved March 13, 1919.]

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana*, That the following amendments to the Constitution of the State of Indiana are hereby proposed and agreed to by this, the seventy-first (71st) General Assembly of the state and are referred to the next General Assembly of the State for reconsideration and agreement.

SEC. 2. That section four (4) of article four (4) of the Constitution of the State of Indiana be amended to read as follows: Section 4. The General Assembly shall during the period between the general election in the year 1924 and the convening of the legislature in 1925, and every sixth year thereafter, cause to be ascertained the number of votes cast for all of the candidates for Secretary of State in the different counties at the last preceding general election.

SEC. 3. That section five (5) of article four (4) of the Constitution of the State of Indiana be amended to read as follows: Section 5. The number of Senators and Representatives shall, at the session next following each period when the number of votes cast for the office of Secretary of State shall be ascertained, be fixed by law, and apportioned among the several counties, according to the number of votes so cast for all of the candidates for the office of Secretary of State at such last preceding general election.⁸³

⁸³ In the General Assembly of 1921, this amendment was incorporated in Senate Joint Resolution No. 7. See Document No. 623.

612. JOINT RESOLUTION: JUSTICES OF THE PEACE

On February 26, 1919 Senators Oscar Ratts (Rep.) and Aaron Wolfson (Rep.) introduced Senate Joint Resolution No. 42 proposing an amendment to section 14 of Article VII of the Constitution. The proposed amendment was designed to amend the Constitution by striking therefrom all of section 14 of Article VII which provides for the election of justices of the peace. This resolution was read the first time on February 26 and was referred to the Committee on Constitutional Revision; on February 27 it was reported for passage and concurred in; on February 28 it was read the second time and ordered engrossed; on March 3 it was read the third time, passed by a vote of 28-10, and was referred to the House. Of the 28 affirmative votes, 24 were cast by Republicans and 4 by Democrats; of the 10 negative votes, 8 were cast by Democrats and 2 by Republicans.

The resolution was received by the House on March 3, was read the first time, and referred to the Committee on Judiciary B; on March 6 it was reported for passage and concurred in, but no further action was taken on the resolution.

Senate Journal, Seventy-first Assembly, 1919, p. 530:

A joint resolution proposing an amendment to the Constitution of the State of Indiana by striking therefrom section 14, article VII.

Section 1. Be it Resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this, the Seventy-first General Assembly of the State of Indiana, and is hereby referred to the General Assembly of the State of Indiana to be chosen at the next general election.

Section 2. That the Constitution of the State of Indiana be amended by striking therefrom section 14 of article VII, which reads as follows: "A competent number of justices of the peace shall be elected by the voters in each township in the several counties. They shall continue in office four years and their powers and duties shall be prescribed by law."

613. LAW, February 6, 1919: WOMAN SUFFRAGE

On January 17, 1919 Charles A. Johnson (Rep.) introduced House Bill No. 63 conferring on women the right to vote for

presidential electors. This act was designed to replace the act of 1917⁸⁴ which was held invalid in *Board v. Knight*, October 26, 1917.⁸⁵ The bill was read the first time on January 17 and was referred to the Committee on Rights and Privileges; on January 21 it was reported for passage and concurred in; on January 23 it was read the second time and ordered engrossed; on January 24 it was read the third time, passed by a vote of 90-3, and was referred to the Senate.

The bill was received by the Senate on January 27, was read the first time, and was referred to the Committee on Rights and Privileges; on January 30 it was reported for passage and concurred in; on February 3 it was read the second time and ordered engrossed; on February 5 it was read the third time, passed by a vote of 44-3, and was returned to the House. The bill was approved by the governor on February 6.

Laws of Indiana, 1919, p. 5:

CHAPTER 2

AN ACT granting women citizens the right to vote for presidential electors; and providing for their registration.

[H. 63. Approved February 6, 1919.]

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That all women citizens of the United States of the age of twenty-one years and upwards, who shall have resided in the state during the six months, and in the township sixty days, and in the ward or precinct thirty days immediately preceding any presidential election, shall be entitled to vote at such election for presidential electors, subject to the provisions of law regulating the votes of male electors, if they shall have been duly registered according to law.

SEC. 2. Separate ballot boxes and ballots shall be provided for women citizens in each election precinct, which ballots shall contain the names of the candidates for presidential electors who are to be voted for, and the ballots cast by women citizens shall be canvassed with the other ballots cast for presidential electors.

⁸⁴ See Document No. 564.

⁸⁵ See Document No. 567.

SEC. 3. Prior to any presidential election for which male voters are required to register, women citizens shall also register in the same place and manner as male voters, provision being made for women citizens to register separately by those whose duty it is to provide for registration of male voters.

614. BILL: CONSTITUTIONAL CONVENTION

On February 5, 1919 Winfield Miller (Rep.) introduced House Bill No. 291 providing for the submission of the question of calling a constitutional convention to a vote of the electors at the general election in November, 1920. The bill was read the first time on February 5 and was referred to the Committee on Judiciary A. On February 21 the committee brought out a divided report; the majority report, which was signed by 5 Republicans and 2 Democrats, recommended passage; and the minority report, which was signed by 2 Republicans, recommended indefinite postponement. The majority report for passage was adopted. On February 27 the bill was read the second time and ordered engrossed, but no further action was taken thereon.⁸⁶

Original Engrossed House Bill No. 291:

A Bill for an Act to provide for taking the sense of the qualified electors of the state of Indiana on a call for a constitutional convention, and providing how such election shall be conducted.

Section 1. Be it Enacted by the General Assembly of the State of Indiana, That it shall be the duty of the inspectors of elections in the several voting precincts within each county in this state at the regular election to be held in November, 1920, to open a poll in which shall be entered all the votes given for or against the calling of a convention to alter, revise or amend the constitution of the state of Indiana, or to formulate a new constitution if deemed advisable.

Section 2. Every qualified voter in the state of Indiana may at said election, vote for or against the calling of a convention for the purpose mentioned in the first section of this act.

⁸⁶ This bill is identical with Senate Bill No. 278. See Document No. 615.

Section 3. The county board of election commissioners shall furnish to each inspector of such election the same number of ballots to be used by the voters in determining whether such conventions shall be called, as is furnished of county ballots. Said ballots shall be in the following form, to-wit:

Are you in favor of calling a constitutional convention?

☐ Yes

☐ No

Such ballot shall be printed on plain white paper four (4) inches square. The expense of printing said ballots and furnishing the ballots, boxes and supplies hereinafter mentioned shall be paid by the respective boards of commissioners of the several counties of the state as other expenses of elections are paid. Each voter shall indicate his desire as to the calling of such convention by marking said ballot in the manner following, viz: If such voter is in favor of calling a constitutional convention he shall make a mark thus "X" in the square in front of the word "Yes," if he is opposed, he shall make a mark thus "X" in the square in front of the word "No." Such ballots after being marked by the voter shall be deposited in a separate box to be provided for the purpose. Every elector who offers to vote at such election, shall be handed one of such ballots by the judge of election.

Section 4. At the close of the polls it is hereby made the duty of the several boards of election to canvass, on the county tally sheet, the ballots cast upon said question, and the votes given for and the votes given against the calling of such convention, and such vote shall be canvassed by the county board of canvassers the same as the votes for candidates are canvassed by such board, certified to the clerks of the circuit court respectively, upon certificates to be furnished such inspectors and board of canvassers, with the other election supplies.

Section 5. It shall be the duty of the clerks of the circuit courts throughout the state to certify and make return of the votes given for and the votes given against the calling of such convention to the secretary of state in the same way and manner that votes for governor are required by law to be certified, and such clerk shall be subject to like penalties for a neglect of duty. It shall be the duty of the secretary of state to lay before the next general assembly all the returns received by him pursuant to the provisions of this act.

Section 6. If a majority of the electors voting at such election on the question of calling a constitutional convention shall be in favor of calling a constitutional convention, then it shall be the duty of the general assembly which convenes next succeeding such election to provide for the holding of a constitutional convention and the election of delegates thereto.

Section 7. In the notice of said general election to be held in November, 1920, shall be included a notice to the electors that the polls will be open for the purpose specified in this act.

615. BILL: CONSTITUTIONAL CONVENTION

On February 18, 1919 Senator John S. Alldredge (Rep.) introduced Senate Bill No. 278 providing for the submission of the question of calling a constitutional convention to a vote of the electors at the general election in November, 1920. The bill was read the first time on February 18 and was referred to the Committee on Rights and Privileges, but no further action was taken thereon.

Original Senate Bill No. 278:

A Bill for an Act to provide for taking the sense of the qualified electors of the state of Indiana on a call for a constitutional convention, and providing how such election shall be conducted.⁸⁷

⁸⁷ This bill is identical with House Bill No. 291 which was introduced on February 5. See Document No. 614.

616. DEMOCRATIC STATE PLATFORM, May 20, 1920

The Democratic state convention which assembled on May 20, 1920 adopted the following resolutions relative to the pending constitutional amendments.

Democratic State Platform:

We reaffirm our stand in favor of the Federal Suffrage Amendment and urge its immediate ratification; and should it fail to be ratified by the required number of states before the next session of the Indiana General Assembly, we favor the adoption of the pending amendment to our state constitution enabling women to vote; and we further pledge party support to this amendment when put to popular vote.

.....
Believing that the exercise of franchise should be one of the most prized privileges of citizenship, we favor the pending amendment to the Indiana constitution which requires all voters to be citizens of the United States, and as a party which stands for patriotism and true Americanism, we pledge our unqualified support to its passage and adoption.⁸⁸

617. FARMER-LABOR STATE PLATFORM, 1920

The Farmer-Labor Party in its platform of 1920 favored the calling of a constitutional convention to adopt a new constitution for the state.

State Platform of the Farmer-Labor Party of Indiana:

2. We favor as the most vital issue, the calling of a Constitutional Convention at the earliest possible moment for the purpose of adopting a new Constitution for the State of Indiana.

⁸⁸ See Document No. 601.

THE SEVENTY-SECOND GENERAL ASSEMBLY,
1921

The House of Representatives of the General Assembly which convened on January 6 and adjourned on March 7, 1921 consisted of 89 Republicans and 11 Democrats, and the Senate consisted of 41 Republicans and 9 Democrats. Warren T. McCray (Rep.) succeeded James P. Goodrich (Rep.) as governor on January 10. The General Assembly of 1919 had adopted resolutions favoring sixteen constitutional amendments and had referred them to the General Assembly of 1921 for reconsideration.¹ Governor Goodrich in his last biennial message recommended that such of these amendments as were adopted by the General Assembly of 1921 be submitted to a vote of the electors at a special election or at the municipal election of 1921. The General Assembly of 1921 re-adopted 13 of the 16 amendments² and provided that they be voted on at a special election held on September 6, 1921.³ A special session of the General Assembly was held on December 14, 1921, but no constitutional questions were considered.

618. GOVERNOR'S MESSAGE, January 6, 1921:
CONSTITUTIONAL AMENDMENTS

In his final message to the General Assembly, delivered on January 6, 1921, Governor James P. Goodrich (Rep.) referred to the pending constitutional amendments and recommended that such of them as might be re-adopted by the General Assembly of 1921 be submitted to the voters at a special election or at the municipal election of 1921.

Senate Journal, Seventy-second Assembly, 1921, pp. 15, 27-28:

It is with some degree of pride that we refer to the legislation enacted during the past four years. A mere reference to the more important matters of legislation is sufficient to advise the General Assembly of the far-reaching steps that have been taken in this state. Among the legislative accomplishments are:

.....

¹ See Documents Nos. 587 to 598, 600 to 602, and 611, inclusive.
² See Documents Nos. 621 to 623, 625 to 627, 629 to 635, inclusive.
³ See Document No. 637.

The passage of joint resolutions authorizing the submission to the people of sixteen amendments to the constitution—among these the budget system.

These amendments, if adopted will give the Governor the right to veto separate items in the appropriation bill; will give the General Assembly power to apply the registration law only to the larger counties of the state; will prohibit increases in salaries; will extend the term of all state and county officers to four years, and provide for an income tax and other amendments of vital importance to the people of the state.

.....

If this General Assembly should approve the joint resolutions now pending, submitting to the voters of the state certain amendments to the constitution, it is exceedingly important that they be considered before the next general election. Among these are amendments making all state and county offices four year offices.

The amendment authorizing the General Assembly to classify counties for registration purposes would make it necessary to require registration in only a very few counties in the state.

In the past constitutional amendments have largely been lost sight of in the interest of a general election.

I recommend, therefore, that the joint resolutions passed by this General Assembly be submitted to the voters of Indiana at a special election to be held during this year and suggest that the date fixed be upon the date of the municipal elections throughout the state.

619. GOVERNOR'S MESSAGE, January 10, 1921: CONSTITUTIONAL AMENDMENTS

In his first message to the General Assembly, delivered on January 10, 1921, Governor Warren T. McCray (Rep.) recommended the re-adoption of the pending tax amendment which was designed to confer upon the General Assembly greater authority over the system of taxation.

House Journal, Seventy-second Assembly, 1921, p. 154:

I further recommend the passage of the amendment passed by the legislature in 1919 relating to taxation, "providing that the General Assembly shall provide by law for a system of taxation."⁴ Only through such methods can we secure a law that will be just and equitable and meet the approval of all the people.

620. JOINT RESOLUTION: PENDING CONSTITUTIONAL AMENDMENTS

On January 11, 1921 Senator William E. English (Rep.) offered and secured the adoption of a motion "that the Secretary of State be requested to deliver to the President of the Senate certified copies of the constitutional amendments agreed to by the 71st General Assembly." Thereupon, Ed Jackson, secretary of state, filed a complete copy of Senate Joint Resolutions 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, 30, 31, and 41 as adopted by the General Assembly of 1919 and referred to the General Assembly of 1921 for reconsideration. The pending amendments as reported were then incorporated in, and introduced as separate and distinct "Proposals" of, Senate Joint Resolution No. 1.

Senate Journal, Seventy-second Assembly, 1921, pp. 150-57:

SENATE JOINT RESOLUTION No. 1.

A Joint Resolution agreeing to certain proposed amendments to the Constitution of the State of Indiana.

Section 1. Be it resolved by the General Assembly of the State of Indiana, That the following proposed amendments to the Constitution of the State of Indiana, which was agreed to by the Seventy-First General Assembly and referred to this General Assembly, be agreed to by this the Seventy-Second General Assembly of the State of Indiana.

PROPOSAL No. 1.

That section two (2) article two (II) of the constitution of the State of Indiana be amended to read as follows:

⁴ See Document No. 592.

Section 2. In all elections not otherwise provided for by this Constitution, every citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the state during the six months, and in the township sixty days, and in the ward or precinct thirty days immediately preceding such election, shall be entitled to vote in the township or precinct where he or she may reside.⁵

PROPOSAL No. 2.

That section fourteen (14) of article two (II) of the constitution of the State of Indiana be amended to read as follows:

Section 14. All general elections shall be held on the first Tuesday after the first Monday in November; but township elections may be held at such time as may be provided by law; Provided, That the General Assembly may provide by law for the election of all judges of courts of general or Appellate Jurisdiction, by an election to be held for such officers only, at which time no other officer shall be voted for; and may also provide for the registration of all persons entitled to vote. In providing for the registration of persons entitled to vote, the General Assembly shall have power to classify the several counties, townships, cities and towns of the state into classes, and to enact laws prescribing a uniform method of registration in any or all such classes.⁶

PROPOSAL No. 3.

That section four (4) of article four (IV) of the Constitution of the State of Indiana be amended to read as follows:

Section 4. The General Assembly shall, during the period between the general election in the year 1924 and the convening of the legislature in 1925, and every sixth year thereafter, cause to be ascertained the number of

⁵ See Documents Nos. 601 and 621.

⁶ See Documents Nos. 591 and 622.

votes cast for all of the candidates for Secretary of State in the different counties at the last preceding general election.

That section five (5) of article four (IV) of the Constitution of the State of Indiana be amended to read as follows:

Section 5. The number of senators and representatives shall at the session next following each period when the number of votes cast for the office of Secretary of State shall be ascertained, be affixed by law, and apportioned among the several counties, according to the number of votes so cast for all of the candidates for the office of Secretary of State at such last preceding general election.⁷

PROPOSAL NO. 4.

That article four (IV) of the Constitution of the State of Indiana be amended by adding thereto a new section to be designated and numbered as section thirty-one (31) to read as follows:

Section 31. The General Assembly shall not appropriate any money out of the treasury except in accordance with the following provisions:

SUB-SECTION A.

Every appropriation bill shall be either a budget bill, or a supplementary appropriation bill, as hereinafter mentioned.

SUB-SECTION B.

First. Within ten days after the convening of the General Assembly, except in the case of a newly elected governor and then within fifteen days after his inauguration, unless such time shall be extended by the General Assembly for the session at which the budget is to be submitted, the governor shall submit to the General Assembly two budgets, one for each of the ensuing fiscal years. Each budget shall contain a complete plan for

⁷ See Documents Nos. 611 and 623.

proposed expenditures and estimated revenues for the particular fiscal year to which it related; and shall show the estimated surplus or deficit of revenues at the end of such year. Accompanying each budget shall be a statement showing: (1) the revenues and expenditures for each of the two fiscal years next preceding; (2) the current assets, liabilities, reserves and surplus or deficit of the state; (3) the debts and funds of the state; (4) an estimate of the state's financial condition as of the beginning and end of each of the fiscal years covered by the two budgets above provided; (5) any explanation the governor may desire to make as to the important features of any budget and any suggestions as to methods for the reduction or increase of the state's revenues.

Second. Each budget shall be divided into two parts, and the first shall be designated "governmental appropriations" and shall embrace an itemized estimate of the appropriations: (1) for the General Assembly as certified to the Governor in the manner hereinafter provided; (2) for the executive department; (3) for the judiciary department as certified to the Governor by the auditor of state; (4) to pay and discharge the principal and interest of any debt of the State of Indiana created in conformity with the constitution, and all laws enacted in pursuance thereof; (5) for the salaries payable by the state under the constitution and laws of the state; (6) for the aid of public schools or higher institutions of learning in conformity with the constitution and the laws of the state; (7) for such other purposes as are set forth in the constitution and laws made in pursuance thereof.

Third. The second part shall be designated "general appropriations", and shall include all other estimates or appropriations.

The Governor shall deliver to the presiding officer of each house the budgets and a bill for all the proposed appropriations of the budgets clearly itemized and classified; and the presiding officer of each house shall promptly cause said bill to be introduced therein, and such bill shall

be known as the "budget bill". The Governor may, before final action thereon by the General Assembly, amend or supplement either of said budgets to correct an oversight or in case of an emergency, with the consent of the General Assembly, by delivering such an amendment or supplement to the presiding officer of each house; and such amendment or supplement shall thereby become a part of said budget bill as an addition to the items of said bill or as a modification of or a substitution for any item of said bill such amendment or supplement may affect.

The General Assembly shall not amend the budget bill so as to affect any lawful obligation of the state contracted in pursuance of any provision of the constitution or the laws enacted in pursuance thereof, or so as to create a deficit but may amend the bill by increasing or diminishing the items therein relating to the General Assembly, and by increasing the items therein relating to the judiciary, but, except as hereinbefore specified, may not alter the said bill except to strike out or reduce items therein: Provided, however, That the salary or compensation of any public officer shall not be increased or diminished during his term of office.

Fourth. The Governor and such representatives of the executive departments, boards, officers and commissions of the state expending or applying for state's money, as have been designated by the Governor for this purpose, shall have the right, and when requested by either house of the General Assembly, or any duly authorized committee of either house, it shall be their duty to appear and be heard with respect to any budget bill during the consideration thereof and to answer inquiries relative thereto.

SUB-SECTION C.

Neither house shall consider other appropriations until the budget bill has been finally acted upon by both houses, and no such other appropriations shall be valid except in accordance with the provisions following:

(1) Every such appropriation shall be embodied in a separate bill limited to some single work, object or purpose therein stated and called herein a supplementary appropriation bill; (2) each supplementary appropriation bill shall provide the revenue necessary to pay the appropriation thereby made by a tax, direct or indirect to be laid and collected as shall be directed in said bill, unless it appear from such budget that there is sufficient revenue available; (3) no supplementary appropriation bill shall become a law unless it be passed in each house by a vote of the majority of all the members elected to each house and the yeas and nays recorded on its final passage; (4) each supplementary appropriation bill shall be presented to the Governor of the state as provided in section fourteen of article five of the constitution and thereafter all the provisions of said section shall apply.

Nothing in this amendment shall be construed as preventing the General Assembly from passing at any time, in accordance with the provisions of section twenty-five (25) of article four (IV) of the constitution, and subject to the Governor's power of approval, as provided in section fourteen (14) of article five (V) of the constitution, an appropriation bill to provide for the payment of any obligation of the State of Indiana within the protection of section 10 article I of the constitution of the United States.

SUB-SECTION D.

First. If the budget shall not have been fully acted upon by the General Assembly three days before the expiration of its regular session, the Governor may, and it shall be his duty to issue a proclamation extending the session for such further period as may, in his judgment, be necessary for the passage of such bill; but no other matter than such bill shall be considered during such extended session except a provision for the cost thereof.

Second. The governor, for the purpose of making up his budgets, shall have the power, and it shall be his duty,

to require from the proper state officials, including herein all executive departments, all executive and administrative officers, bureaus, boards, commissions and agencies expending or supervising the expenditures of, and institutions applying for state moneys and appropriations, such itemized estimates and other information, in such form and at such time as he shall direct. The estimates for the legislative department, certified by the presiding officer of each house, of the judiciary, as certified by the auditor of state, and for the public schools or higher institutions of learning as certified by the state superintendent of public instruction or the administrative head of such institution shall be transmitted to the Governor in such form and at such time as he shall direct and shall be included in the budget.

The Governor may provide for public hearings on all estimates and may require the attendance at such hearings of representatives of all agencies, and all institutions applying for state moneys. After such public hearings, he may, in his discretion, revise all estimates except those for the legislative and judiciary departments, and for the public schools as provided by law.

Third. The General Assembly may, from time to time, enact such laws, not inconsistent with this section, as may be necessary and proper to carry out its provisions.

Fourth. In the event of an inconsistency between any of this section and any of the other provisions of the constitution, the provisions of this section shall prevail. But nothing herein shall be construed as preventing the Governor from calling special sessions of the legislature as provided by section 9 of article IV, or as preventing the General Assembly at such special sessions from considering any emergency appropriation or appropriations.

If any item of any appropriation bill passed under the provisions of this section shall be held invalid upon any ground, such invalidity shall not affect the legality of the bill or of any other item of such bill or bills.⁸

⁸ See Documents Nos. 594 and 624.

PROPOSAL No. 5.

That section fourteen (14) of article five (V) of the constitution of the State of Indiana be amended to read as follows:

Section 14. Every bill which shall have passed the General Assembly shall be presented to the governor; if he approve, he shall sign it, but if not, he shall return it, with his objections, to the house in which it shall have originated, which house shall enter the objections at large upon its journals, and proceed to reconsider the bill. If, after such reconsideration, a majority of all the members elected to that house shall agree to pass the bill, it shall be sent, with the Governor's objections, to the other house, by which it shall likewise be reconsidered, and if approved by a majority of all the members elected to that house, it shall be a law. If any bill shall not be returned by the Governor within three days, Sundays excepted, after it shall have been presented to him, it shall be a law without his signature, unless the general adjournment shall prevent its return, in which case it shall be a law, unless the Governor, within five days next after such adjournment, shall file such bill, with his objections thereto, in the office of the Secretary of State, who shall lay the same before the General Assembly at its next session in like manner as if it had been returned by the Governor; but no bill shall be presented to the Governor within two days next previous to the final adjournment of the General Assembly. The Governor shall have power to approve or disapprove any item or items of any bill making appropriations of money, embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriation disapproved shall be void unless repassed according to the rules and limitations prescribed in this section for the passage of bills over the executive veto. In case the Governor shall disapprove any item or items of any bill, making appropriations of money, he shall append to the bill, at the time of signing it, a statement

of the item or items which he declines to approve, together with his reasons therefor. If the General Assembly be in session, the Governor shall transmit to the house in which the bill shall have originated a copy of each of such items separately, together with his objections appended to each of such items, and the item or items so objected to shall be separately reconsidered in the same manner as bills which have been passed by the General Assembly and disapproved by the Governor, and if on reconsideration, such items or any of them shall be approved by a majority of all the members elected to each house, the same shall be a part of the law, notwithstanding the objections of the Governor.⁹

PROPOSAL NO. 6.

That section one (1), article six (VI), of the Constitution of the State of Indiana, be amended to read as follows:

Section 1. There shall be elected by the voters of the state a Secretary and Auditor and a Treasurer of State, said officers and all other state officers created by the General Assembly, and to be elected by the people, except judges, shall severally hold their offices for four years. They shall perform such duties as may be enjoined by law; and no person other than judges shall be eligible to any of said offices for more than four years in any period of eight years.¹⁰

PROPOSAL NO. 7.

That section two (2), article six (VI), of the Constitution of the State of Indiana, be amended to read as follows:

Section 2. There shall be elected in each county by the voters thereof at the time of holding general elections a clerk of the circuit court, auditor, recorder, treasurer, sheriff and coroner, who shall severally hold their

⁹ See Documents Nos. 593 and 625.

¹⁰ See Documents Nos. 595 and 626.

offices for four years; and no person shall be eligible to either of said offices for more than four years in any period of eight years.¹¹

PROPOSAL No. 8.

That section seven (7) of article seven (VII) of the Constitution of the State of Indiana be amended to read as follows:

Section 7. The General Assembly shall provide for the selection of a clerk of the Supreme Court, whose term of office, duties and compensation shall be prescribed by law. Provided, That any clerk of the Supreme Court elected prior to or at the time of the ratification of this amendment, shall serve out the term of office for which he shall have been elected.¹²

PROPOSAL No. 9.

That section eleven (11), article seven (VII), of the Constitution of the State of Indiana, be amended to read as follows:

Section 11. There shall be elected in each judicial circuit, by the voters thereof, a prosecuting attorney, who shall hold his office for four years.¹³

PROPOSAL No. 10.

That section twenty-one (21), article seven (VII), of the Constitution of the State of Indiana be amended to read as follows:

Section 21. The General Assembly may by law provide for the qualifications of persons admitted to the practice of law.¹⁴

PROPOSAL No. 11.

That section eight (8) of article eight (VIII) of the Constitution of the state of Indiana be amended to read as follows:

¹¹ See Documents Nos. 596 and 627.

¹² See Documents Nos. 589 and 628.

¹³ See Documents Nos. 597 and 629.

¹⁴ See Documents Nos. 598 and 630.

Section 8. The General Assembly shall provide for the appointment of a state superintendent of public instruction, whose term of office, duties and compensation shall be prescribed by law: Provided, That any state superintendent of public instruction elected prior to or at the time of the ratification of this amendment, shall serve out the time for which he shall have been elected.¹⁵

PROPOSAL No. 12.

That section one (1) of article ten (X) of the Constitution of the State of Indiana be amended to read as follows:

Section 1. The General Assembly shall provide by law for a system of taxation.¹⁶

PROPOSAL No. 13.

That article ten (X) of the Constitution of the State of Indiana be amended by adding thereto a new section to be designated and numbered as section eight (8) to read as follows:

Section 8. The General Assembly may provide by law for the levy and collection of taxes on incomes and from whatever source derived, in such cases and amounts, and in such manner, as shall be prescribed by law and reasonable exemptions may be provided.¹⁷

PROPOSAL No. 14.

That section one (1), article twelve (XII), of the Constitution of the State of Indiana be amended to read as follows:

Section 1. The Militia shall consist of all able-bodied male persons between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States, or of this state; and shall be organized, officered, armed, equipped, and trained in such manner as may be provided by law.¹⁸

¹⁵ See Documents Nos. 590 and 631.

¹⁶ See Documents Nos. 592 and 632.

¹⁷ See Documents Nos. 600 and 633.

¹⁸ See Documents Nos. 574, 587, and 634

PROPOSAL No. 15.

That section two (2), article fifteen (XV), of the Constitution of the State of Indiana be amended to read as follows:

Section 2. When the duration of any office is not provided for by this constitution, it may be declared by law; and if not, so declared, such office shall be held during the pleasure of the authority making the appointment. But the General Assembly shall not create any office, the tenure of which shall be longer than four years (4), nor shall the term of office or salary of any officer fixed by this constitution or by law be increased during the term for which such officer was elected or appointed.¹⁹

PROPOSAL No. 16.

That sections one (1) and two (2), article sixteen (XVI), of the constitution of the State of Indiana be amended to read as follows:

Section 1. Any amendment or amendments to this constitution may be proposed in either branch of the General Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals and referred to the General Assembly to be chosen at the next general election; and if in the General Assembly so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, when it shall be the duty of the General Assembly to submit such amendment or amendments to the electors of the state, and if a majority of said electors voting thereon shall ratify the same, such amendments shall become a part of this constitution.

Section 2. If two (2) or more amendments shall be submitted at the same time, they shall be submitted in

¹⁹ See Documents Nos. 602 and 635.

such manner that the electors shall vote for or against each of such amendments separately.²⁰

Section 2. The Secretary of the Senate is hereby ordered to spread this resolution and said proposals in full on the Journal of this Senate, and thereupon to transmit said proposals to the House of Representatives for its action thereon.

This resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 18 the resolution was reported for passage and concurred in; on January 19 the resolution was called up for second reading; the presiding officer of the Senate ruled that the pending amendments had not been introduced in proper form, and the resolution was recommitted to the Committee on Constitutional Revision; on January 20 the committee submitted the following report:

Senate Journal, Seventy-second Assembly, 1921, p. 201:

Your Committee on Constitutional Revision begs leave to report as follows: That it has had under consideration Senate Joint Resolution No. 1, and begs leave to report the same back to the Senate with the recommendation that as a substitute for said Joint Resolution No. 1, the following separate Joint Resolutions be adopted, to be numbered 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20, and to be hereafter carried on the records as separate Joint Resolutions.

621. JOINT RESOLUTION, March 1, 1921: QUALIFICATIONS FOR SUFFRAGE

On January 11, 1921 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 1 agreeing to the sixteen constitutional amendments which had been adopted by the General Assembly of 1919 and referred to the General Assembly of 1921 for reconsideration. The amendment conferring the right of suffrage on women and restricting the right of suffrage to native-born or fully naturalized persons, which was embodied in Senate Joint Resolution No. 30 of the General Assembly of 1919,²¹ and which was an amendment of section 2 of Article II of the Con-

²⁰ See Documents Nos. 575, 588, and 636.

²¹ See Document No. 601.

stitution, appeared as Proposal No. 1. This resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 18 the resolution was reported for passage and concurred in; on January 19 the resolution was read the second time and was recommitted to the Committee on Constitutional Revision; on January 20 the committee recommended that each of the proposals appearing in Senate Joint Resolution No. 1 be carried thereafter in a separate resolution and the suffrage amendment was carried in Senate Joint Resolution No. 5.²² On January 26 the resolution was read the third time, passed by a vote of 45-2, and was referred to the House. Of the 45 affirmative votes, 38 were cast by Republicans and 7 by Democrats; both of the negative votes were cast by Democrats.

The resolution was received by the House on January 27, was read the first time and referred to the Committee on Judiciary A; on February 9 it was reported for passage and concurred in; on February 15 it was read the second time and ordered engrossed; on February 24 it was read the third time, passed by a vote of 74-0, and was returned to the Senate. The resolution was approved by the governor on March 1.

Laws of Indiana, 1921, pp. 880-81:

CHAPTER 281.

A JOINT RESOLUTION agreeing to a proposed amendment to Section two (2), Article two (II) of the Constitution of the State of Indiana.

[S. J. Resolution 5. Approved March 1, 1921.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana*, That the following proposed amendment to the constitution of the State of Indiana, which was agreed to by the seventy-first general assembly and referred to this general assembly, be agreed to by this seventy-second general assembly of the State of Indiana.

That section two (2) article two (II) of the constitution of the State of Indiana be amended to read as follows: Section 2. In all elections not otherwise provided for by this constitution, every citizen of the United States, of the age of twenty-one years and upwards, who

²² See Document No. 620.

shall have resided in the state during the six months, and in the township sixty days, and in the ward or precinct thirty days immediately preceding such election, shall be entitled to vote in the township or precinct where he or she may reside.²³

622. JOINT RESOLUTION, March 1, 1921:
REGISTRATION OF VOTERS

On January 11, 1921 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 1 agreeing to the sixteen constitutional amendments which had been adopted by the General Assembly of 1919 and referred to the General Assembly of 1921 for reconsideration. The amendment authorizing the General Assembly to classify counties, townships, cities, and towns for the purpose of registering voters, which was embodied in Senate Joint Resolution No. 20 of the General Assembly of 1919,²⁴ and which was an amendment of section 14 of Article II, appeared as Proposal No. 2. This resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 18 the resolution was reported for passage and concurred in; on January 19 the resolution was read the second time and was recommitted to the Committee on Constitutional Revision; on January 20 the committee recommended that each of the proposals appearing in Senate Joint Resolution No. 1 should be carried thereafter in a separate resolution and the registration amendment was carried in Senate Joint Resolution No. 6.²⁵ On January 31 the resolution was read the third time, passed by a vote of 42-1, and was referred to the House.

The resolution was received by the House on February 1; on February 3 it was read the first time and referred to the Committee on Judiciary A; on February 9 it was reported for passage and concurred in; on February 15 it was read the second time and ordered engrossed; on February 24 it was read the third time, passed by a vote of 79-1, and was returned to the Senate. The resolution was approved by the governor on March 1.

²³ Each of the resolutions adopted in 1921 had the following section 2, which is not an essential part of the resolution:

"SEC. 2. The secretary of the senate is hereby ordered to spread this resolution and said proposals in full on the journal of this senate, and thereupon to transmit said proposals to the house of representatives for its action thereon." See Document No. 638, Amendment No. 1.

²⁴ See Document No. 591.

²⁵ See Document No. 620.

Laws of Indiana, 1921, p. 881:

CHAPTER 282.

A JOINT RESOLUTION agreeing to a proposed amendment to Section fourteen (14) of article two (II) of the Constitution of the State of Indiana.

[S. J. Resolution 6. Approved March 1, 1921.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana*, That the following proposed amendment to the constitution of the State of Indiana, which was agreed to by the seventy-first general assembly and referred to this general assembly, be agreed to by this the seventy-second general assembly of the State of Indiana.

That section fourteen (14) of article two (II) of the constitution of the State of Indiana be amended to read as follows: Section 14. All general elections shall be held on the first Tuesday after the first Monday in November; but township elections may be held at such time as may be provided by law: *Provided*, That the general assembly may provide by law for the election of all judges of courts of general or appellate jurisdiction, by an election to be held for such officers only, at which time no other officer shall be voted for; and may also provide for the registration of all persons entitled to vote. In providing for the registration of persons entitled to vote, the general assembly shall have power to classify the several counties, townships, cities and towns of the state into classes, and to enact laws prescribing a uniform method of registration in any or all such classes.²⁶

623. JOINT RESOLUTION, March 2, 1921: APPORTIONMENT

On January 11, 1921 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 1 agreeing to the sixteen constitutional amendments which had been adopted by the General Assembly of 1919 and referred to the General Assembly of 1921 for reconsideration. The amendment providing that the apportionment of state senators and representatives should be based on the total vote cast for secretary of state instead of on

²⁶ See Document No. 638, Amendment No. 2.

the sexennial enumeration of male inhabitants over twenty-one years of age, which was embodied in Senate Joint Resolution No. 41 of the General Assembly of 1919,²⁷ and which was an amendment of sections 4 and 5 of Article IV, appeared as Proposal No. 3. This resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 18 the resolution was reported for passage and concurred in; on January 19 the resolution was read the second time and was recommitted to the Committee on Constitutional Revision; on January 20 the committee recommended that each of the proposals appearing in Senate Joint Resolution No. 1 be carried thereafter in a separate resolution and the apportionment amendment was carried in Senate Joint Resolution No. 7.²⁸ On January 29 the resolution was read the third time, passed by a vote of 32-3, and was referred to the House.

The resolution was received by the House on January 31; on February 3 it was read the first time and referred to the Committee on Judiciary B; on February 10 it was reported for passage and concurred in; on February 15 it was read the second time and ordered engrossed; on February 24 it was read the third time, passed by a vote of 76-12,²⁹ and was returned to the Senate. Of the 76 affirmative votes, all were cast by Republicans; of the 12 negative votes, 10 were cast by Democrats and 2 by Republicans. The resolution was approved by the governor on March 2.

Laws of Indiana, 1921, pp. 887-88:

CHAPTER 289.

A JOINT RESOLUTION agreeing to proposed amendments to Sections four (4) and five (5) of Article four (IV) of the Constitution of the State of Indiana.

[S. J. Resolution 7. Approved March 2, 1921.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana,* That the following proposed amendments to the constitution of the State of Indiana, which were agreed to by the seventy-first general assembly and referred to this general assembly, be agreed to by this the seventy-second general assembly of the State of Indiana.

That section four (4) of article four (IV) of the constitution of the State of Indiana be amended to read as

²⁷ See Document No. 611.

²⁸ See Document No. 620.

²⁹ The vote is given in the *House Journal* as 75-12, but the names listed total 76-12.

follows: Section 4. The general assembly shall during the period between the general election in the year 1924 and the convening of the legislature in 1925, and every sixth year thereafter, cause to be ascertained the number of votes cast for all of the candidates for secretary of state in the different counties at the last preceding general election.

That section five (5) of article four (IV) of the constitution of the State of Indiana be amended to read as follows: Section 5. The number of senators and representatives shall, at the session next following each period when the number of votes cast for the office of secretary of state shall be ascertained, be fixed by law, and apportioned among the several counties, according to the number of votes so cast for all of the candidates for the office of secretary of state at such last preceding general election.³⁰

624. JOINT RESOLUTION: STATE BUDGET

On January 11, 1921 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 1 agreeing to the sixteen constitutional amendments which had been adopted by the General Assembly of 1919 and referred to the General Assembly of 1921 for reconsideration. The amendment providing for an executive state budget, which was embodied in Senate Joint Resolution No. 23 of the General Assembly of 1919,³¹ and which amended Article IV by creating and adding thereto a new section to be numbered section 31, appeared as Proposal No. 4.³² This resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 18 the resolution was reported for passage and concurred in; on January 19 the resolution was read the second time and was recommitted to the Committee on Constitutional Revision; on January 20 the committee recommended that each of the proposals appearing in Senate Joint Resolution No. 1 be carried thereafter in a separate resolution, and the state budget amendment was carried in Senate Joint Resolution No. 8. No further action was ever taken on this resolution.

³⁰ See Document No. 638, Amendment No. 3.

³¹ See Document No. 594.

³² See Document No. 620.

Senate Journal, Seventy-second Assembly, 1921, pp. 202-5:

A Joint Resolution agreeing to a proposed amendment to article four (IV) of the Constitution of the State of Indiana.³³

625. JOINT RESOLUTION, March 1, 1921:

VETO OF ITEMS IN APPROPRIATION BILLS

On January 11, 1921 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 1 agreeing to the sixteen constitutional amendments which had been adopted by the General Assembly of 1919 and referred to the General Assembly of 1921 for reconsideration. The amendment authorizing the governor to veto items in appropriation bills, which was embodied in Senate Joint Resolution No. 22 of the General Assembly of 1919,³⁴ and which was an amendment of section 14 of Article V, appeared as Proposal No. 5. This resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 18 the resolution was reported for passage and concurred in; on January 19 the resolution was read the second time and was recommitted to the Committee on Constitutional Revision; on January 20 the committee recommended that each of the proposals appearing in Senate Joint Resolution No. 1 be carried thereafter in a separate resolution, and the amendment authorizing the governor to veto items in appropriation bills was carried in Senate Joint Resolution No. 9.³⁵ On January 31 the resolution was read the third time, passed by a vote of 36-8, and was referred to the House. Of the 36 affirmative votes, 34 were cast by Republicans and 2 by Democrats; of the 8 negative votes, 6 were cast by Democrats and 2 by Republicans.

The resolution was received by the House on February 1; on February 3 it was read the first time and referred to the Committee on Judiciary B; on February 10 it was reported for passage and concurred in; on February 15 it was read the second time and ordered engrossed; on February 24 it was read the third time, passed by a vote of 83-1, and was returned to the Senate. The resolution was approved by the governor on March 1.

³³ The amendment as it appears here is identical with that proposed by Senate Joint Resolution No. 23, approved in 1919. See Document No. 594 for complete text of the amendment.

³⁴ See Document No. 593.

³⁵ See Document No. 620.

Laws of Indiana, 1921, pp. 882-83:

CHAPTER 283.

A JOINT RESOLUTION agreeing to a proposed amendment to Section fourteen (14) of Article five (5) of the Constitution of the State of Indiana:

[S. J. Resolution 9. Approved March 1, 1921.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana*, That the following proposed amendment to the constitution of the State of Indiana, which was agreed to by the seventy-first general assembly and referred to this general assembly, be agreed to by this the seventy-second general assembly of the State of Indiana.

That section fourteen (14) of article five (5) of the constitution of the State of Indiana be amended to read as follows: Section 14. Every bill which shall have passed the general assembly shall be presented to the governor; if he approve, he shall sign it, but if not, he shall return it, with his objections, to the house in which it shall have originated, which house shall enter the objections at large upon its journals, and proceed to reconsider the bill. If, after such reconsideration, a majority of all the members elected to that house shall agree to pass the bill, it shall be sent, with the governor's objections, to the other house, by which it shall likewise be reconsidered, and, if approved by a majority of all the members elected to that house, it shall be a law. If any bill shall not be returned by the governor within three days, Sundays excepted, after it shall have been presented to him it shall be a law without his signature, unless the general adjournment shall prevent its return, in which case it shall be a law, unless the governor, within five days next after such adjournment, shall file such bill, with his objections thereto, in the office of the secretary of state, who shall lay the same before the general assembly at its next session in like manner as if it had been returned by the governor. But no bill shall be presented to the governor within two days next

previous to the final adjournment of the general assembly. The governor shall have power to approve or disapprove any item or items of any bill making appropriations of money, embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriation disapproved shall be void unless repassed according to the rules and limitations prescribed in this section for the passage of bills over the executive veto. In case the governor shall disapprove any item or items of any bill making appropriations of money, he shall append to the bill, at the time of signing it, a statement of the item or items which he declines to approve, together with his reasons therefor. If the general assembly be in session, the governor shall transmit to the house in which the bill shall have originated a copy of each of such items, separately, together with his objections appended to each of such items, and the item or items so objected to shall be separately reconsidered in the same manner as bills which have been passed by the general assembly and disapproved by the governor, and if on reconsideration such items or any of them shall be approved by a majority of all the members elected to each house, the same shall be a part of the law notwithstanding the objections of the governor.³⁶

626. JOINT RESOLUTION, March 2, 1921: TERMS OF STATE OFFICERS

On January 11, 1921 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 1 agreeing to the sixteen constitutional amendments which had been adopted by the General Assembly of 1919 and referred to the General Assembly of 1921 for reconsideration. The amendment fixing the terms of state officers at four years, which was embodied in Senate Joint Resolution No. 24 of the General Assembly of 1919,³⁷ and which was an amendment of section 1 of Article VI, appeared as Proposal No. 6. This resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 18 the resolution was reported for passage and concurred in; on

³⁶ See Document No. 638, Amendment No. 4.

³⁷ See Document No. 595.

January 19 the resolution was read the second time and was recommitted to the Committee on Constitutional Revision; on January 20 the committee recommended that each of the proposals appearing in Senate Joint Resolution No. 1 should be carried thereafter in a separate resolution and the amendment fixing the terms of state officers at four years was carried in Senate Joint Resolution No. 10.³⁸ On January 29 the resolution was read the third time, passed by a vote of 35-0, and was referred to the House.

The resolution was received by the House on January 31; on February 3 it was read the first time and referred to the Committee on Judiciary B; on February 10 it was reported for passage and concurred in; on February 15 it was read the second time and ordered engrossed; on February 24 it was read the third time, passed by a vote of 69-10, and was returned to the Senate. Of the 69 affirmative votes, all were cast by Republicans; of the 10 negative votes, 7 were cast by Democrats and 3 by Republicans. The resolution was approved by the governor on March 2.

Laws of Indiana, 1921, p. 888:

CHAPTER 290.

A JOINT RESOLUTION agreeing to a proposed amendment to Section one (1), Article six (6) of the Constitution of the State of Indiana.

[S. J. Resolution 10. Approved March 2, 1921.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana, That the following proposed amendment to the constitution of the State of Indiana, which was agreed to by the seventy-first general assembly and referred to this general assembly, be agreed to by this the seventy-second general assembly of the State of Indiana.*

That section one (1), article six (6), of the constitution of the State of Indiana be amended to read as follows: Section 1. There shall be elected by the voters of the state a secretary, an auditor and a treasurer of state, said officers, and all other state officers created by the general assembly and to be elected by the people, except judges, shall severally hold their offices for four years. They shall perform such duties as may be enjoined by law; and no person other than judges shall

³⁸ See Document No. 620.

be eligible to any of said offices for more than four years in any period of eight years.³⁹

627. JOINT RESOLUTION, March 1, 1921:
TERMS OF COUNTY OFFICERS

On January 11, 1921 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 1 agreeing to the sixteen constitutional amendments which had been adopted by the General Assembly of 1919 and referred to the General Assembly of 1921 for reconsideration. The amendment fixing the terms of county officers at four years, which was embodied in Senate Joint Resolution No. 25 of the General Assembly of 1919,⁴⁰ and which was an amendment of section 2 of Article VI, appeared as Proposal No. 7. This resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 18 the resolution was reported for passage and concurred in; on January 19 the resolution was read the second time and was re-committed to the Committee on Constitutional Revision; on January 20 the committee recommended that each of the proposals appearing in Senate Joint Resolution No. 1 be carried thereafter in a separate resolution, and the amendment fixing the terms of county officers at four years was carried in Senate Joint Resolution No. 11.⁴¹ On February 1 the resolution was read the third time, passed by a vote of 32-10, and was referred to the House. Of the 32 affirmative votes, 31 were cast by Republicans and 1 by a Democrat; of the 10 negative votes, 6 were cast by Democrats and 4 by Republicans.

The resolution was received by the House on February 2; on February 3 it was read the first time and referred to the Committee on Judiciary A; on February 9 it was reported for passage with an amendment and was made a special order of business for February 10. The amendment proposed to fix the terms of county officers at eight years instead of four and to provide that they should be ineligible more than eight years in any period of twelve years. On February 10 when the resolution came up for consideration as a special order of business the speaker ruled "that the report of the Committee in so far as it attempted to amend the resolution was out of order." The resolution was thereupon re-committed to the Committee on Judiciary A. On February 15 the resolution was reported for passage and concurred in; on February 21 it was read the second time and ordered engrossed;

³⁹ See Document No. 638, Amendment No. 5.

⁴⁰ See Document No. 596.

⁴¹ See Document No. 620.

on February 24 it was read the third time, passed by a vote of 53-24, and was returned to the Senate. Of the 53 affirmative votes, 52 were cast by Republicans and 1 by a Democrat; of the 24 negative votes, 6 were cast by Democrats and 18 by Republicans.⁴² The resolution was approved by the governor on March 1.

Laws of Indiana, 1921, p. 884:

CHAPTER 284.

A JOINT RESOLUTION agreeing to a proposed amendment to Section two (2), Article six (6) of the Constitution of the State of Indiana:

[S. J. Resolution 11. Approved March 1, 1921.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana*, That the following proposed amendment to the constitution of the State of Indiana, which was agreed to by the seventy-first general assembly and referred to this general assembly, be agreed to by this the seventy-second general assembly of the State of Indiana.

That section two (2), article six (6), of the constitution of the State of Indiana be amended to read as follows: Section 2. There shall be elected in each county by the voters thereof at the time of holding general elections a clerk of the circuit court, auditor, recorder, treasurer, sheriff and coroner, who shall severally hold their offices for four years; and no person shall be eligible to either of said offices for more than four years in any period of eight years.⁴³

628. JOINT RESOLUTION: CLERK OF SUPREME COURT

On January 11, 1921 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 1 agreeing to the sixteen constitutional amendments which had been adopted by the General Assembly of 1919 and referred to the General Assembly of 1921 for reconsideration. The amendment providing for the appointment of the clerk of the Indiana Supreme Court, which was embodied in Senate Joint Resolution No. 18 of the General As-

⁴² One member, a Democrat, is recorded as voting both "aye" and "no," and is therefore not included in the vote as given above. The vote is given in the *House Journal* as 52-25.

⁴³ See Document No. 638, Amendment No. 6.

sembly of 1919, and which was an amendment of section 7 of Article VII, appeared as Proposal No. 8.⁴⁴ This resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 18 the resolution was reported for passage and concurred in; on January 19 it was read the second time and was recommitted to the Committee on Constitutional Revision; on January 20 the committee recommended that each of the proposals appearing in Senate Joint Resolution No. 1 be carried thereafter in a separate resolution, and the amendment concerning the selection of the clerk of the Supreme Court was carried in Senate Joint Resolution No. 12. On February 2 the resolution was read the third time and was defeated by a vote of 11-30. Of the 11 affirmative votes, all were cast by Republicans; of the 30 negative votes, 23 were cast by Republicans and 7 by Democrats.

Senate Journal, Seventy-second Assembly, 1921, p. 207:

A Joint Resolution agreeing to a proposed amendment to section seven (7) of Article seven (VII) of the Constitution of the state of Indiana.⁴⁵

629. JOINT RESOLUTION, March 1, 1921: PROSECUTING ATTORNEYS

On January 11, 1921 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 1 agreeing to the sixteen constitutional amendments which had been adopted by the General Assembly of 1919 and referred to the General Assembly of 1921 for reconsideration. The amendment fixing the terms of prosecuting attorneys at four years, which was embodied in Senate Joint Resolution No. 26 of the General Assembly of 1919,⁴⁶ and which was an amendment of section 11 of Article VII, appeared as Proposal No. 9. This resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 18 the resolution was reported for passage and concurred in; on January 19 it was read the second time and was recommitted to the Committee on Constitutional Revision; on January 20 the committee recommended that each of the proposals appearing in Senate Joint Resolution No. 1 be carried thereafter in a separate resolution, and the amendment fixing the terms of prosecuting attorneys at four years was carried in Senate Joint

⁴⁴ See Document No. 620.

⁴⁵ The amendment as here proposed was identical with that proposed in Senate Joint Resolution No. 18, adopted in 1919. See Document No. 589 for complete text of the proposed amendment.

⁴⁶ See Document No. 597.

Resolution No. 13.⁴⁷ On February 1 the resolution was read the third time, passed by a vote of 39-3, and was referred to the House.

The resolution was received by the House on February 2; on February 3 it was read the first time and referred to the Committee on Judiciary A; on February 9 it was reported for passage and concurred in; on February 15 it was read the second time and ordered engrossed; on February 24 it was read the third time, passed by a vote of 76-6, and was returned to the Senate.

The resolution was approved by the governor on March 1.

Laws of Indiana, 1921, pp. 884-85:

CHAPTER 285.

A JOINT RESOLUTION agreeing to a proposed amendment to Section eleven (11), Article seven (VII) of the Constitution of the State of Indiana:

[S. J. Resolution 13. Approved March 1, 1921.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana, That the following proposed amendment to the constitution of the State of Indiana, which was agreed to by the seventy-first general assembly and referred to this general assembly, be agreed to by this the seventy-second general assembly of the State of Indiana.*

That section eleven (11), article seven (VII), of the constitution of the State of Indiana be amended to read as follows: Section 11. There shall be elected in each judicial circuit, by the voters thereof, a prosecuting attorney, who shall hold his office for four years.⁴⁸

630. JOINT RESOLUTION, March 1, 1921: QUALIFICATIONS FOR PRACTICE OF LAW

On January 11, 1921 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 1 agreeing to the sixteen constitutional amendments which had been adopted by the General Assembly of 1919 and referred to the General Assembly of 1921 for reconsideration. The amendment authorizing the General Assembly to prescribe the qualifications necessary to be admitted to

⁴⁷ See Document No. 620.

⁴⁸ See Document No. 638, Amendment No. 7.

practice law, which was embodied in Senate Joint Resolution No. 27 of the General Assembly of 1919,⁴⁹ and which was an amendment of section 21 of Article VII, appeared as Proposal No. 10. This resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 18 the resolution was reported for passage and concurred in; on January 19 it was read the second time and was recommitted to the Committee on Constitutional Revision; on January 20 the committee recommended that each of the proposals appearing in Senate Joint Resolution No. 1 be carried thereafter in a separate resolution, and the amendment relative to the qualifications of lawyers was carried in Senate Joint Resolution No. 14.⁵⁰ On January 28 the resolution was read the third time, passed by a vote of 40-0, and was referred to the House.

The resolution was received by the House on January 31; on February 3 it was read the first time and referred to the Committee on Judiciary B; on February 10 it was reported for passage and concurred in; on February 15 it was read the second time and ordered engrossed; on February 24 it was read the third time, passed by a vote of 78-3,⁵¹ and was returned to the Senate. The resolution was approved by the governor on March 1.

Laws of Indiana, 1921, p. 885:

CHAPTER 286.

A JOINT RESOLUTION agreeing to a proposed amendment to Section twenty-one (21), Article seven (VII) of the Constitution of the State of Indiana:

[S. J. Resolution 14. Approved March 1, 1921.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana*, That the following proposed amendment to the constitution of the State of Indiana, which was agreed to by the seventy-first general assembly and referred to this general assembly, be agreed to by this the seventy-second general assembly of the State of Indiana.

That section twenty-one (21), article seven (VII) of the constitution of the State of Indiana be amended to read as follows: Section 21. The general assembly may

⁴⁹ See Document No. 598.

⁵⁰ See Document No. 620.

⁵¹ The vote is given in the *House Journal* as 77-3, but the names listed total 78-3.

by law provide for the qualifications of persons admitted to the practice of law.⁵²

631. JOINT RESOLUTION, March 10, 1921:
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

On January 11, 1921 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 1 agreeing to the sixteen constitutional amendments which had been adopted by the General Assembly of 1919 and referred to the General Assembly of 1921 for reconsideration. The amendment providing for the appointment instead of the election of the state superintendent of public instruction, which was embodied in Senate Joint Resolution No. 19 of the General Assembly of 1919,⁵³ and which was an amendment of section 8 of Article VIII, appeared as Proposal No. 11. This resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 18 it was reported for passage and concurred in; on January 19 it was read the second time and was recommitted to the Committee on Constitutional Revision; on January 20 the committee recommended that each of the proposals appearing in Senate Joint Resolution No. 1 should be carried thereafter in a separate resolution, and the amendment relative to the appointment of the state superintendent of public instruction was carried in Senate Joint Resolution No. 15.⁵⁴ On February 3 the resolution was read the third time and was defeated by a vote of 12-35. Of the 12 affirmative votes, all were cast by Republicans; of the 35 negative votes, 26 were cast by Republicans and 9 by Democrats. On March 3 a motion to reconsider the vote taken on the resolution was filed; on March 4 the motion to reconsider was agreed to, the resolution was placed upon its passage a second time and passed by a vote of 26-17, and was referred to the House. Of the 26 affirmative votes, all were cast by Republicans; of the 17 negative votes, 8 were cast by Republicans and 9 by Democrats.

The resolution was received by the House on March 5; on March 7 it was read the first time and referred to the Committee on Ways and Means; on March 7 it was reported for passage and concurred in; on March 7, the constitutional rule requiring the reading of bills on three several days was suspended by a vote of 69-6, the resolution was read the second time, considered engrossed, read the third time, passed by a vote of 58-11, and was returned to the

⁵² See Document No. 638, Amendment No. 8.

⁵³ See Document No. 590.

⁵⁴ See Document No. 620.

Senate. Of the 58 affirmative votes, all were cast by Republicans; of the 11 negative votes, 6 were cast by Democrats and 5 by Republicans. The resolution was approved by the governor on March 10.

Laws of Indiana, 1921, p. 894:

CHAPTER 296.

A JOINT RESOLUTION agreeing to a proposed amendment to Section eight (8) of Article eight (VIII) of the Constitution of the State of Indiana.

[S. J. Resolution 15. Approved March 10, 1921.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana*, That the following proposed amendment to the constitution of the State of Indiana, which was agreed to by the seventy-first general assembly and referred to this general assembly, be agreed to by this the seventy-second general assembly of the State of Indiana.

That section eight (8) of article eight (VIII) of the constitution of the State of Indiana be amended to read as follows: Section 8. The general assembly shall provide for the appointment of a state superintendent of public instruction, whose term of office, duties and compensation shall be prescribed by law: *Provided*, That any state superintendent of public instruction elected prior to or at the time of the ratification of this amendment, shall serve out the time for which he shall have been elected.⁵⁵

632. JOINT RESOLUTION, March 8, 1921: TAXATION

On January 11, 1921 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 1 agreeing to the sixteen constitutional amendments which had been adopted by the General Assembly of 1919 and referred to the General Assembly of 1921 for reconsideration. The amendment giving the General Assembly greater authority over the tax system of the state, which was embodied in Senate Joint Resolution No. 21 of the General Assembly of 1919,⁵⁶ and which was an amendment of section 1 of

⁵⁵ See Document No. 638, Amendment No. 9.

⁵⁶ See Document No. 592.

Article X, appeared as Proposal No. 12. This resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 18 it was reported for passage and concurred in; on January 19 it was read the second time and was recommitted to the Committee on Constitutional Revision; on January 20 the committee recommended that each of the proposals appearing in Senate Joint Resolution No. 1 be carried thereafter in a separate resolution, and the amendment relating to taxation was carried in Senate Joint Resolution No. 16.⁵⁷ On January 27 the resolution was read the third time, passed by a vote of 34-8, and was referred to the House. Of the 34 affirmative votes, 29 were cast by Republicans and 5 by Democrats; of the 8 negative votes, 6 were cast by Republicans and 2 by Democrats.

The resolution was received by the House on January 28, was read the first time and referred to the Committee on Judiciary A; on February 9 the committee reported, recommending the indefinite postponement of the resolution. While the report of the committee was under consideration, it was made a special order of business for February 10. On February 10 the resolution was under consideration as a special order of business and was again made a special order of business for February 14. On February 14 the resolution was again considered as a special order of business, whereupon the chairman of the committee which had reported the resolution for indefinite postponement moved "that the House receive the report of the committee on Judiciary A, on Engrossed Senate Joint Resolution No. 16 and that the House do not concur in said report." This motion prevailed, and a motion was then adopted that the resolution be passed to second reading. On February 21 the resolution was read the second time and ordered engrossed; on March 3 it was read the third time, passed by a vote of 69-19, and was returned to the Senate. Of the 69 affirmative votes, 66 were cast by Republicans and 3 by Democrats; of the 19 negative votes, 12 were cast by Republicans and 7 by Democrats. The resolution was approved by the governor on March 8.

Laws of Indiana, 1921, p. 893:

CHAPTER 295.

A JOINT RESOLUTION agreeing to a proposed amendment to Section one (1) of Article ten (X) of the Constitution of the State of Indiana.

[S. J. Resolution 16. Approved March 8, 1921.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana, That the following proposed*

⁵⁷ See Document No. 620.

amendment to the constitution of the State of Indiana, which was agreed to by the seventy-first general assembly and referred to this general assembly, be agreed to by this the seventy-second general assembly of the State of Indiana.

That section one (1) of article ten (X) of the constitution of the State of Indiana be amended to read as follows: Section 1. The general assembly shall provide by law for a system of taxation.⁵⁸

633. JOINT RESOLUTION, March 8, 1921: INCOME TAX

On January 11, 1921 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 1 agreeing to the sixteen constitutional amendments which had been adopted by the General Assembly of 1919 and referred to the General Assembly of 1921 for reconsideration. The amendment providing for an income tax, which was embodied in Senate Joint Resolution No. 29 of the General Assembly of 1919,⁵⁹ and which amended Article X by adding thereto a new section to be numbered section 8, appeared as Proposal No. 13. This resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 18 it was reported for passage and concurred in; on January 19 it was read the second time and was recommitted to the Committee on Constitutional Revision; on January 20 the committee recommended that each of the proposals appearing in Senate Joint Resolution No. 1 be carried thereafter in a separate resolution, and the amendment relative to an income tax was carried in Senate Joint Resolution No. 17.⁶⁰ On February 2 the resolution was read the third time, passed by a vote of 33-10, and was referred to the House. Of the 33 affirmative votes, 26 were cast by Republicans and 7 by Democrats; of the 10 negative votes, all were cast by Republicans.

The resolution was received by the House on February 3, was read the first time and referred to the Committee on Judiciary B; on February 10 it was reported for passage and concurred in; on February 15 it was read the second time and ordered engrossed; on March 3 it was read the third time, passed by a vote of 76-6, and was returned to the Senate. The resolution was approved by the governor on March 8.

⁵⁸ See Document No. 638, Amendment No. 10.

⁵⁹ See Document No. 600.

⁶⁰ See Document No. 620.

Laws of Indiana, 1921, p. 889:

CHAPTER 291.

A JOINT RESOLUTION agreeing to a proposed amendment to Article ten (X) of the Constitution of the State of Indiana.

[S. J. Resolution 17. Approved March 8, 1921.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana,* That the following proposed amendment to the constitution of the State of Indiana, which was agreed to by the seventy-first general assembly and referred to this general assembly, be agreed to by this the seventy-second general assembly of the State of Indiana.

That article ten (10) of the constitution of the State of Indiana, be amended by adding thereto a new section to be designated and numbered as section eight (8) to read as follows: Section 8. The general assembly may provide by law for the levy and collection of taxes on incomes and from whatever source derived, in such cases and amounts, and in such manner, as shall be prescribed by law and reasonable exemptions may be provided.⁶¹

634. JOINT RESOLUTION, March 1, 1921: STATE MILITIA

On January 11, 1921 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 1 agreeing to the sixteen constitutional amendments which had been adopted by the General Assembly of 1919 and referred to the General Assembly of 1921 for reconsideration. The amendment authorizing negroes to serve in the state militia, which was embodied in Senate Joint Resolution No. 16 of the General Assembly of 1919,⁶² and which amended section 1 of Article XII, appeared as Proposal No. 14. This resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 18 it was reported for passage and concurred in; on January 19 it was read the second time and was recommitted to the Committee on Constitutional Revision; on January 20 the committee recommended that each of the proposals appearing in Senate Joint Resolution No. 1 be carried thereafter in a separate resolution and the amendment authorizing negroes to serve in the state militia was carried in

⁶¹ See Document No. 638, Amendment No. 11.

⁶² See Documents Nos. 574 and 587.

Senate Joint Resolution No. 18.⁶³ On January 27 the resolution was read the third time, passed by a vote of 39-4, and was referred to the House.

The resolution was received by the House on January 28, was read the first time and referred to the Committee on Judiciary B; on February 14 it was read the second time and ordered engrossed; on February 24 it was read the third time, passed by a vote of 80-1, and was returned to the Senate. The resolution was approved by the governor on March 1.

Laws of Indiana, 1921, p. 886:

CHAPTER 287.

A JOINT RESOLUTION agreeing to a proposed amendment to Section one (1), Article twelve (XII) of the Constitution of the State of Indiana.

[S. J. Resolution 18. Approved March 1, 1921.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana, That the following proposed amendment to the constitution of the State of Indiana, which was agreed to by the seventy-first general assembly and referred to this general assembly, be agreed to by this the seventy-second general assembly of the State of Indiana.*

That section one (1), article twelve (XII), of the constitution of the State of Indiana be amended to read as follows: Secton 1. The militia shall consist of all able-bodied male persons between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States, or of this state; and shall be organized, officered, armed, equipped and trained in such manner as may be provided by law.⁶⁴

635. JOINT RESOLUTION, March 1, 1921:

TERMS AND SALARIES OF PUBLIC OFFICERS

On January 11, 1921 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 1 agreeing to the sixteen constitutional amendments which had been adopted by the General Assembly of 1919 and referred to the General Assembly of 1921 for reconsideration. The amendment prohibiting increases in the

⁶³ See Document No. 620.

⁶⁴ See Document No. 638, Amendment No. 12.

salaries or extensions of the terms of public officials during their terms of office, which was embodied in Senate Joint Resolution No. 31 of the General Assembly of 1919,⁶⁵ and which amended section 2 of Article XV, appeared as Proposal No. 15. This resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 18 it was reported for passage and concurred in; on January 19 it was read the second time and was recommitted to the Committee on Constitutional Revision; on January 20 the committee recommended that each of the proposals appearing in Senate Joint Resolution No. 1 be carried thereafter in a separate resolution, and the amendment relative to the salaries and terms of public officials was carried in Senate Joint Resolution No. 19.⁶⁶ On January 26 the resolution was read the third time, passed by a vote of 30-16, and was referred to the House. Of the 30 affirmative votes, 27 were cast by Republicans and 3 by Democrats; of the 16 negative votes, 5 were cast by Democrats and 11 by Republicans.

The resolution was received by the House on January 27, was read the first time and referred to the Committee on Judiciary A; on February 9 it was reported favorably and concurred in; on February 15 it was read the second time and ordered engrossed; on February 24 it was read the third time, passed by a vote of 77-0,⁶⁷ and was returned to the Senate. The resolution was approved by the governor on March 1.

Laws of Indiana, 1921, pp. 886-87:

CHAPTER 288.

A JOINT RESOLUTION agreeing to a proposed amendment to Section two (2), Article fifteen (XV) of the Constitution of the State of Indiana:

[S. J. Resolution 19. Approved March 1, 1921.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana, That the following proposed amendment to the constitution of the State of Indiana, which was agreed to by the seventy-first general assembly and referred to this general assembly, be agreed to by this the seventy-second general assembly of the State of Indiana.*

That section two (2), article fifteen (XV), of the constitution of the State of Indiana be amended to read as

⁶⁵ See Document No. 602.

⁶⁶ See Document No. 620.

⁶⁷ The vote is given in the *House Journal* as 78-0, but the names listed total 77-0.

follows: Section 2. When the duration of any office is not provided for by this constitution, it may be declared by law: and if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the general assembly shall not create any office, the tenure of which shall be longer than four years (4), nor shall the term of office or salary of any officer fixed by this constitution or by law be increased during the term for which such officer was elected or appointed.⁶⁸

636. JOINT RESOLUTION: METHOD OF AMENDING CONSTITUTION

On January 11, 1921 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 1 agreeing to the sixteen constitutional amendments which had been adopted by the General Assembly of 1919 and referred to the General Assembly of 1921 for reconsideration. The amendment changing the method of amending the Constitution, which was embodied in Senate Joint Resolution No. 17 of the General Assembly of 1919, and which amended sections 1 and 2 of Article XVI, appeared as Proposal No. 16.⁶⁹ This resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 18 it was reported for passage and concurred in; on January 19 it was read the second time and was recommitted to the Committee on Constitutional Revision; on January 20 the committee recommended that each of the proposals appearing in Senate Joint Resolution No. 1 be carried thereafter in a separate resolution, and the amendment changing the method of amending the Constitution was carried in Senate Joint Resolution No. 20. On January 26 the resolution was read the third time and failed to pass by a vote of 13-33. Of the 13 affirmative votes, all were cast by Republicans; of the 33 negative votes, 25 were cast by Republicans and 8 by Democrats.

Senate Journal, Seventy-second Assembly, pp. 265-66:

A Joint Resolution agreeing to proposed amendments to sections one (1) and two (2), article sixteen (16), of the Constitution of the State of Indiana.⁷⁰

⁶⁸ See Document No. 638, Amendment No. 13.

⁶⁹ See Document No. 620.

⁷⁰ This proposed amendment is identical with that proposed in Senate Joint Resolution No. 17, passed by the General Assembly of 1919. See Document No. 588 for the complete text. See also Document No. 575.

637. LAW, March 10, 1921:

SUBMISSION OF CONSTITUTIONAL AMENDMENTS

On February 19, 1921 Senator William E. English (Rep.) introduced Senate Bill No. 312 providing for the submission to the voters of the state, for ratification or rejection, of the constitutional amendments which had been proposed by the General Assembly of 1919 and agreed to by the General Assembly of 1921.⁷¹ This bill was read the first time on February 19 and was referred to the Committee on Constitutional Revision; on February 24 the bill was reported for passage with amendments and concurred in; on February 26 the bill was read the second time, amended, and ordered engrossed; later the same day the rule requiring bills to be read on three several days was suspended, the bill was passed by a vote of 33-11, and was referred to the House.

The bill was received by the House on February 28, was read the first time and referred to the Committee on Judiciary B; on March 3 it was reported for passage, with amendments, and concurred in; on March 4 it was read the second time and ordered engrossed; on March 7 it was read the third time and placed upon its passage. While under consideration on third reading an amendment was offered, but the bill was made a special order of business before any action was taken on the amendment. When the bill came up as a special order, the pending amendment and one additional amendment were adopted. The bill was then passed by a vote of 72-24⁷² and was returned to the Senate. On March 7 the Senate concurred in the House amendments. The bill was approved by the governor on March 10. The bill as finally enacted provided that the pending constitutional amendments be submitted to a vote of the electors at a special election to be held on September 6, 1921.

Laws of Indiana, 1921, pp. 451-55:

CHAPTER 174.

AN ACT providing for the submission of certain proposed constitutional amendments to the electors of the state for ratification or rejection at a special election, prescribing the duties of election officers and declaring an emergency.

[S. 312. Approved March 10, 1921.]

SECTION 1. *Be it enacted by the general assembly of the State of Indiana, That each and all of the proposed amendments to the constitution of the State of*

⁷¹ See Document No. 638.

⁷² The vote is given in the *House Journal* as 72-23, but the names listed total 72-24.

Indiana, which were submitted to the general assembly of said state at its regular session in 1919 and agreed to by a majority of the members elected to each of the two houses of said general assembly, and which were thereafter referred to the general assembly chosen at the next general election and agreed to by a majority of all the members elected to each house of such general assembly at its regular session in 1921, be submitted to the electors of the State of Indiana for their ratification or rejection at a special election to be held for that purpose on the "sixth" (6th) day of September[,] ⁷³ 1921.

SEC. 2. The state board of election commissioners shall cause to be printed a sufficient number of ballots on white paper⁷⁴ to be used at such special election. On the fact [face] of such ballots shall be printed the respective proposed amendments so agreed to by a majority of the members in each house of the general assembly of 1919 and 1921 and the words "For the amendment" and "Against the amendment" opposite appropriate squares for marking the ballot. The square opposite the words "For the amendment" shall contain the word "Yes" and the square opposite the words "Against the amendment" shall contain the word "No."⁷⁵

SEC. 3. The board and officers for such election shall consist of one inspector, one judge, one clerk,⁷⁶ all to be appointed by the board of county commissioners at least

⁷³ The word "June," which occurred in the original bill, was changed to "September" by a second-reading amendment in the Senate. *Senate Journal*, 1921, p. 746. An amendment by the House committee changed the date of the election from September 6 to June 7, and a House amendment on third reading again changed the date to September 6. *House Journal*, 1921, pp. 876-77, 978.

⁷⁴ The words "on white paper" were inserted by a Senate committee amendment. *Senate Journal*, 1921, pp. 719-20.

⁷⁵ The following section, which was section 3 of the original bill, was stricken out by the Senate committee amendment mentioned in the preceding note:

"SEC. 3. Not less than ten days prior to the day on which such special election is to be held, the state board of election commissioners shall send to the clerk of the circuit court of each county the number of ballots, securely sealed, to which such county is entitled, and the clerk shall promptly acknowledge receipt thereof and shall keep such ballots in a secure place in his office until called for by the several election inspectors as hereinafter provided."

⁷⁶ The words "two sheriffs" which occurred at this place in the original bill were stricken out on second reading in the Senate. *Senate Journal*, 1921, p. 746.

ten days prior to such election. The party casting the highest vote in such county at the preceding general election for the office of secretary of state shall be entitled to nominate the inspector, and clerk the party casting the next highest vote in such county at the preceding general election for the office of secretary of state shall be entitled to nominate the judge. If nominations are not made for any of said offices the board of commissioners shall appoint qualified voters to act, who shall be of the party failing to so nominate a candidate. The compensation of said officers shall be the same and paid in the same manner as for like services at primary elections.⁷⁷

SEC. 4. The qualifications of voters at such election shall be the same as for general elections except the formalities required by the registration law shall be dispensed with. Any voter desiring to vote for a given proposed amendment shall make a cross in the square opposite the words "For the amendment" and any voter desiring to vote against a proposed amendment shall make a cross in the square opposite the words "Against the amendment". If a voter shall fail to indicate his choice as to some of the proposed amendments his ballot shall be rejected only as to the proposed amendments for or against which he failed to indicate his choice and shall be counted as to those in relation to which his choice was properly indicated.

⁷⁷ This entire section was stricken out on third reading in the House and the section as it now reads inserted in lieu thereof. As originally proposed this section read as follows:

"SEC. 4. The board and officers for such election shall consist of one inspector, two judges, two clerks, two sheriffs, and a poll book holder, all to be appointed by the board of county commissioners at least ten days prior to such election. The party casting the highest vote in such county at the preceding general election for the office of secretary of state shall be entitled to nominate the inspector and the party casting the next highest vote in such county at the preceding general election for the office of secretary of state shall be entitled to nominate the poll book holder. Each of said political parties shall be entitled to nominate one of the judges, one of the clerks and one of the sheriffs. If nominations are not made for any of such offices the board of commissioners shall appoint qualified voters to act, who shall be of the party failing to so nominate a candidate. The compensation of said officers shall be the same and paid in the same manner as for like services at general elections."

SEC. 5. In so far as applicable and not inconsistent with the provisions of this act the laws of this state governing general elections shall be observed and followed by the different boards and officers in providing for said special election, in conducting it and in making the returns and canvass of votes including all penal laws for fraudulent voting or other illegal acts. The hours of the voting shall be the same as at general elections.

SEC. 6. The board of election of each precinct shall count the votes for and against each proposed amendment separately, and also the whole number of electors who voted at the election, and certify all said numbers, specifying separately the number of votes cast for each proposed amendment and the number cast against each, and the whole number of electors who voted at the election, over their signatures or the signatures of a majority of them to the clerk of the circuit court [court] in their county within two days after the election. The clerk of each county shall, within four days after said election, ascertain from such certificates the total vote in said county for and against each proposed amendment separately, and also the whole number of electors who voted at the election, and certify the same to the secretary of state. The secretary of state shall, as soon as possible after the election, determine from said certificates of the clerks of the circuit courts of the several counties, the total vote cast in the state for and against each proposed amendment separately and also the total number of electors who voted at the election, and certify the same to the governor; and the governor shall immediately issue and publish a proclamation, declaring therein the number of votes cast in the state, for and against each proposed amendment separately, and also the whole number of electors who voted at the election. And if it shall appear that the number of votes cast in the state for any one or more of said proposed amendments was greater than the number of votes cast against the same amendment, and equal to a majority of all the electors who

voted at the election, then each such amendment shall be deemed and taken to have been ratified by the electors of the state, and become part of the constitution, and shall be so declared by the governor in said proclamation. But if it shall appear that any proposed amendment has received in its favor a number of votes less than a majority of all the electors who voted at the election, then each such amendment shall be deemed and taken to have been rejected by the electors of the state and shall be so declared by the governor in said proclamation. For the purpose of the ratification or rejection of said proposed amendments, and each of them, the number of electors who shall vote at the election herein provided for, shall be conclusively taken and deemed to be the whole number of electors in the state. The certificate of the secretary of state herein provided for, and the proclamation of the governor based thereon, shall be final and conclusive evidence of the number of votes cast for and against each amendment, and of the whole number of electors who voted at the election, and of the ratification or rejection of each proposed amendment, as the case may be.

SEC. 7. It shall be the duty of every officer charged with any service under this act to perform the same with the utmost promptness and fidelity, but the failure of any such officer or officers to perform any such duty in the time or manner herein directed, or the failure of the electors in any precinct or county to hold an election as herein provided, shall not in any manner affect the validity of such election.

SEC. 8. That an emergency exists, requiring that this act shall take effect immediately, and that the same shall be in force from and after its passage.

638. BALLOT

The ballot which was used at the special election of September 6, 1921 to submit the thirteen proposed constitutional amendments to a vote of the electors was printed on white paper, set forth the

number, the general subject, and the text of each amendment, indicated the section and article of the Constitution to be amended, and contained two squares, appropriately designated, by marking which the electors could vote for or against any or all of the proposed amendments. The proposed amendments submitted to the voters were proposed by the General Assembly of 1919 and re-adopted by the General Assembly of 1921.

AMENDMENT NO. 1

(Voters—Citizens)

Proposed Amendment to Section 2 of Article 2.

Section 2. In all elections not otherwise provided for by this Constitution, every citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the state during the six months, and in the township sixty days, and in the ward or precinct thirty days immediately preceding such election, shall be entitled to vote in the township or precinct where he or she may reside.⁷⁸

YES

FOR THE AMENDMENT

NO

AGAINST THE AMENDMENT

AMENDMENT NO. 2

(Registration)

Proposed Amendment to Section 14 of Article 2.

Section 14. All general elections shall be held on the first Tuesday after the first Monday in November; but township elections may be held at such time as may be provided by law: *Provided*, That the General Assembly may provide by law for the election of all judges of courts of general or appellate jurisdiction, by an election to be held for such officers only, at which time no other officer shall be voted for; and may also provide for the registra-

⁷⁸ For proposal of this amendment in 1919 and readoption in 1921, see Documents Nos. 601 and 621. For vote on amendment, see Appendix II.

tion of all persons entitled to vote. In providing for the registration of persons entitled to vote, the General Assembly shall have power to classify the several counties, townships, cities and towns of the state into classes, and to enact laws prescribing a uniform method of registration in any or all of such classes.⁷⁹

YES

FOR THE AMENDMENT

NO

AGAINST THE AMENDMENT

AMENDMENT NO. 3**(Apportionment)****Proposed Amendment to Sections 4 and 5 of Article 4.**

Section 4. The General Assembly shall during the period between the general election in the year 1924 and the convening of the legislature in 1925, and every sixth year thereafter, cause to be ascertained the number of votes cast for all of the candidates for Secretary of State in the different counties at the last preceding general election.

Section 5. The number of Senators and Representatives shall, at the session following each period when the number of votes for the office of Secretary of State shall be ascertained, be apportioned by law, and apportioned among the several counties, according to the number of votes so cast for all of the candidates for the office of Secretary of State at such last preceding general election.⁸⁰

YES

FOR THE AMENDMENT

NO

AGAINST THE AMENDMENT

⁷⁹ For proposal of this amendment in 1919 and readoption in 1921, see Documents Nos. 531 and 621. For vote on amendment see Appendix II.

⁸⁰ For proposal of this amendment in 1919 and readoption in 1921, see Documents Nos. 611 and 623. For vote on amendment, see Appendix II.

AMENDMENT NO. 4**(Veto—Appropriations)****Proposed Amendment to Section 14 of Article 5.**

Section 14. Every bill which shall have passed the General Assembly shall be presented to the Governor; if he approves, he shall sign it, but if not he shall return it, with his objections, to the house in which it shall have originated, which house shall enter the objections at large upon its journals, and proceed to reconsider the bill. If, after such reconsideration, a majority of all the members elected to that house shall agree to pass the bill, it shall be sent, with the Governor's objections, to the other house, by which it shall likewise be reconsidered, and, if approved by a majority of all the members elected to that house, it shall be a law. If any bill shall not be returned by the Governor within three days, Sundays excepted, after it shall have been presented to him, it shall be a law without his signature, unless the general adjournment shall prevent its return, in which case it shall be a law, unless the Governor, within five days next after such adjournment, shall file such bill, with his objections thereto, in the office of the Secretary of State, who shall lay the same before the General Assembly at its next session in like manner as if it had been returned by the Governor. But no bill shall be presented to the Governor within two days next previous to the final adjournment of the General Assembly. The Governor shall have power to approve or disapprove any item or items of any bill making appropriations of money, embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriation disapproved shall be void unless repassed according to the rules and limitations prescribed in this section for the passage of bills over the executive veto. In case the Governor shall disapprove any item or items of any bill making appropriations of money, he shall append to the bill at the time of signing it, a statement of the item or items which he declines to approve,

together with his reasons therefor. If the General Assembly be in session, the Governor shall transmit to the house in which the bill shall have originated a copy of each of such items, separately, together with his objections appended to each of such items, and the item or items so objected to shall be separately considered in the same manner as bills which have been passed by the General Assembly and disapproved by the Governor, and if on reconsideration such items or any of them shall be approved by a majority of all the members elected to each house, the same shall be a part of the law notwithstanding the objections of the Governor.⁸¹

YES

FOR THE AMENDMENT

NO

AGAINST THE AMENDMENT

AMENDMENT NO. 5
(State Officers—Terms)

Proposed Amendment to Section 1 of Article 6.

Section 1. There shall be elected by the voters of the state a secretary, an auditor and a treasurer of state, said officers, and all other state officers created by the General Assembly and to be elected by the people, except judges, shall severally hold their offices for four years. They shall perform such duties as may be enjoined by law; and no person other than judges shall be eligible to any of said offices for more than four years in any period of eight years.⁸²

YES

FOR THE AMENDMENT

NO

AGAINST THE AMENDMENT

⁸¹ For proposal of this amendment in 1919 and readoption in 1921, see Documents Nos. 593 and 625. For vote on amendment, see Appendix II.

⁸² For proposal of this amendment in 1919 and readoption in 1921, see Documents Nos. 595 and 626. For vote on amendment, see Appendix II.

AMENDMENT NO. 6**(County Officers—Terms)****Proposed Amendment to Section 2 of Article 6.**

Section 2. There shall be elected in each county by the voters thereof at the time of holding general elections a clerk of the circuit court, auditor, recorder, treasurer, sheriff and coroner, who shall severally hold their offices for four years; and no person shall be eligible to either of said offices for more than four years in any period of eight years.⁸³

☐ YES

FOR THE AMENDMENT

☐ NO

AGAINST THE AMENDMENT

AMENDMENT NO. 7**(Prosecuting Attorney—Term)****Proposed Amendment to Section 11 of Article 7.**

Section 11. There shall be elected in each judicial circuit, by the voters thereof, a prosecuting attorney, who shall hold his office for four years.⁸⁴

☐ YES

FOR THE AMENDMENT

☐ NO

AGAINST THE AMENDMENT

⁸³ For proposal of this amendment in 1919 and readoption in 1921, see Documents Nos. 596 and 627. For vote on amendment, see Appendix II.

⁸⁴ For proposal of this amendment in 1919 and readoption in 1921, see Documents Nos. 597 and 629. For vote on amendment, see Appendix II.

AMENDMENT NO. 8
(Lawyers—Qualifications)

Proposed Amendment to Section 21 of Article 7.

Section 21. The General Assembly may by law provide for the qualifications of persons admitted to the practice of the law.⁸⁵

YES

FOR THE AMENDMENT

NO

AGAINST THE AMENDMENT

AMENDMENT NO. 9
(State Superintendent)

Proposed Amendment to Section 8 of Article 8.

Section 8. The General Assembly shall provide for the appointment of a state superintendent of public instruction, whose term of office, duties and compensation shall be prescribed by law: *Provided*, That any state superintendent of public instruction elected prior to or at the time of the ratification of this amendment, shall serve out the term for which he shall have been elected.⁸⁶

YES

FOR THE AMENDMENT

NO

AGAINST THE AMENDMENT

AMENDMENT NO. 10
(Taxation—General)

Proposed Amendment to Section 1 of Article 10.

Section 1. The General Assembly shall provide by law for a system of taxation.⁸⁷

YES

FOR THE AMENDMENT

NO

AGAINST THE AMENDMENT

⁸⁵ For proposal of this amendment in 1919 and readoption in 1921, see Documents Nos. 598 and 630. For vote on amendment, see Appendix II.

⁸⁶ For proposal of this amendment in 1919 and readoption in 1921, see Documents Nos. 590 and 631. For vote on amendment, see Appendix II.

⁸⁷ For proposal of this amendment in 1919 and readoption in 1921, see Documents Nos. 592 and 632. For vote on amendment, see Appendix II.

AMENDMENT NO. 11**(Income Tax)****Proposed Amendment to Section 8 of Article 10.**

Section 8. The General Assembly may provide by law for the levy and collection of taxes on incomes and from whatever source derived, in such cases and amounts, and in such manner, as shall be prescribed by law and reasonable exemptions may be provided.⁸⁸

YES

FOR THE AMENDMENT

NO

AGAINST THE AMENDMENT

AMENDMENT NO. 12**(Militia)****Proposed Amendment to Section 1 of Article 12.**

Section 1. The militia shall consist of all able-bodied male persons between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States, or of this state; and shall be organized, officered, armed, equipped and trained in such manner as may be provided by law.⁸⁹

YES

FOR THE AMENDMENT

NO

AGAINST THE AMENDMENT

AMENDMENT NO. 13**(Salaries, Terms—Increase)****Proposed Amendment to Section 2 of Article 15.**

Section 2. When the duration of any office is not provided for by this Constitution, it may be declared by law; and if not so declared, such office shall be held during

⁸⁸ For proposal of this amendment in 1919 and readoption in 1921, see Documents Nos. 600 and 633. For vote on amendment, see Appendix II.

⁸⁹ For proposal of this amendment in 1919 and readoption in 1921, see Documents Nos. 587 and 634. For vote on amendment, see Appendix II.

the pleasure of the authority making the appointment. But the General Assembly shall not create any office, the tenure of which shall be longer than four (4) years, nor shall the term of office or salary of any officer fixed by this Constitution or by law be increased during the term for which such officer was elected or appointed.⁹⁰

YES

FOR THE AMENDMENT

NO

AGAINST THE AMENDMENT

639. GOVERNOR'S PROCLAMATION, September 13, 1921: ADOPTION OF CONSTITUTIONAL AMENDMENT

Pursuant to the provisions of the act of March 10, 1921,⁹¹ Governor Warren T. McCray issued his proclamation on September 13, 1921 certifying the number of votes cast for and against each of the thirteen proposed constitutional amendments at the special election of September 6, 1921,⁹² and declaring Amendment No. 1 adopted and each of the other twelve amendments rejected.

Proclamation Book of Secretary of State, p. 457:

PROCLAMATION

WHEREAS, In pursuance of the provisions of Section 6 of an Act entitled "An Act providing for the submission of certain proposed constitutional amendments to the electors of the State for ratification or rejection at a special election, prescribing the duties of election officers and declaring an emergency", approved March 10, 1921; and

WHEREAS, It is this day certified by Ed Jackson, Secretary of State of the State of Indiana, that the following is a true and correct statement of the total vote cast in the State of Indiana for and against the proposed amendments to the Constitution of the State of Indiana as cast at the special election held September 6th, 1921, as shown by the certificates of the clerks of the circuit courts of

⁹⁰ For proposal of this amendment in 1919 and readoption in 1921, see Documents Nos. 602 and 635. For vote on amendment, see Appendix II.

⁹¹ See Document No. 637.

⁹² See Document No. 638.

the several counties of the State of Indiana, now on file in the office of the Secretary of State:

Amendment No. 1

Votes cast for the amendment..... 130,242

Votes cast against the amendment..... 80,574

Amendment No. 2

Votes cast for the amendment..... 90,269

Votes cast against the amendment..... 110,333

Amendment No. 3

Votes cast for the amendment..... 76,963

Votes cast against the amendment..... 117,890

Amendment No. 4

Votes cast for the amendment..... 83,265

Votes cast against the amendment..... 101,790

Amendment No. 5

Votes cast for the amendment..... 74,177

Votes cast against the amendment..... 113,300

Amendment No. 6

Votes cast for the amendment..... 82,389

Votes cast against the amendment..... 115,139

Amendment No. 7

Votes cast for the amendment..... 76,589

Votes cast against the amendment..... 116,683

Amendment No. 8

Votes cast for the amendment..... 78,431

Votes cast against the amendment..... 117,479

Amendment No. 9

Votes cast for the amendment..... 46,023

Votes cast against the amendment..... 149,294

Amendment No. 10

Votes cast for the amendment..... 31,786

Votes cast against the amendment..... 166,186

Amendment No. 11

Votes cast for the amendment..... 39,005

Votes cast against the amendment..... 157,827

Amendment No. 12

Votes cast for the amendment..... 55,027

Votes cast against the amendment..... 142,909

Amendment No. 13

Votes cast for the amendment..... 80,191

Votes cast against the amendment..... 117,140

and,

WHEREAS, It has also been made to appear to me that from certificates of the Clerks of the Circuit Courts now on file in the office of the Secretary of State the total number of electors who voted at said election is 218,696;

NOW, THEREFORE, I, Warren T. McCray, Governor of the State of Indiana, by virtue of the power and authority vested in me by the Constitution and laws of said State, do hereby make proclamation announcing that Amendment Number One, and being an amendment of Section 2 of Article II, reading as follows:

“Section 2. In all elections not otherwise provided for by this Constitution, every citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months, and in the township sixty days, and in the ward or precinct thirty days immediately preceding such election, shall be entitled to vote in the township or precinct where he or she may reside.”

having received a majority of total votes cast, namely, 20,893, is hereby declared to have been ratified by the electors of said State; and that each of the other several proposed amendments, viz: Numbers 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, having received less than a majority of the total votes cast, have been rejected by the electors of said State.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great
(SEAL) Seal of the State of Indiana, at the Capitol, in the City of Indianapolis, this 13th day of September, 1921.

WARREN T. MCCRAY
Governor of Indiana

By the Governor
ED JACKSON
Secretary of State

640. SIMMONS *v.* BYRD, ET AL., June 23, 1922:
 RATIFICATION OF CONSTITUTIONAL AMENDMENTS

Subsequent to the special election of September 6, 1921, at which the amendment to section 2 of Article II of the Constitution relative to suffrage was ratified,⁹³ the question as to whether this amendment had been ratified by "a majority of the electors of the state" within the meaning of Article XVI of the Constitution was submitted to the Indiana Supreme Court for judicial determination. The returns of the special election disclosed that the aggregate number of voters who participated at the special election was 210,816,⁹⁴ whereas at the presidential election of November, 1920, there were 1,262,964 electors who actually voted for presidential electors. It was insisted that 210,816 voters was not a majority of the electors of the state and that the suffrage amendment had not been constitutionally ratified. In the case known as *Simmons v. Bird, et al.*, filed on June 23, 1922, the court held that "a majority of the electors of the state" means a majority of the electors who vote at the election at which an amendment is submitted and that the suffrage amendment had been duly ratified, as required by the Constitution, at the special election of September 6, 1921.

192 *Indiana*, 274-87:

SIMMONS *v.* BYRD ET AL.

[No. 24,118. Filed June 23, 1922.]

1. CONSTITUTIONAL LAW.—*Constitutional Provisions.—Construction.—Majority of Electors.*—Article 16, §1, of the Constitution, authorizing the adoption of amendments and requiring that an amendment be ratified by a majority of the electors of the state, means a majority of the electors who vote at the election at which an amendment is submitted for ratification, and an amendment of Art. 2, §2, of the Constitution which excluded from that section the words "if he shall have been duly registered according to law," having received a majority of the votes cast at the special election at which it was submitted, was properly adopted, regardless of the fact that there may have been a much greater number of qualified electors in the state than the number of those who actually voted at the special election. p. 278.
2. ELECTIONS.—*Registration of Voters.—Power of Legislature.—Constitutional Provisions.*—Article 2, §14, of the Constitution, providing that the "general assembly may provide by law for

⁹³ See Document No. 639.

⁹⁴ This is the total vote quoted in the Supreme Court decision printed below, but an abstract of the vote at this election gives the total as 218,698. See Appendix II.

the election of all judges of courts of general and appellate jurisdiction by an election to be held for such officers only; and shall also provide for the registration of all persons entitled to vote," means the registration of persons entitled to vote at all elections, and not merely at elections for judges, in event they are elected separately, and the legislature has the power, under such constitutional provision, to enact a law providing for the registration of voters at all elections, provided the law does not violate other constitutional provisions, notwithstanding the amendment of Art. 2, §2, striking therefrom the words "if he shall have been duly registered according to law." p. 281.

3. ELECTIONS.—*Registration of Voters.—Power of Legislature.—Constitutional Provisions.*—Under Art. 2, §14 of the Constitution, and in view of §1 of that article, providing that all elections shall be free and equal, the legislature has power to provide by law for the registration of voters, and to exclude from the privilege of voting those persons who refuse or neglect to register a reasonable number of days before the election, as provided by §6977x2 *et seq.* Burns' Supp. 1921, Acts 1919 p. 736, §6977f3 Burns' Supp. 1921, Acts 1920 (Spec. Ses.) p. 38 and §6977w3 *et seq.* Burns' Supp. 1921, Acts 1921 p. 846, and such laws are not in conflict with Art. 2, §2, of the Constitution, enumerating the qualification of voters, notwithstanding the amendment of that section by striking out the words "if he shall have been duly registered according to law." p. 283.
4. ELECTIONS.—*Registration of Voters.—Statute.—Validity.—Constitutional Provisions.*—The Constitution requires (Art. 2, §2) that all persons shall reside in the precinct thirty days before they can vote therein, and the provision contained in the registration laws that voters shall register twenty-nine days before the election is not such an abuse of the legislative discretion that the courts can declare such laws void. p. 286.

From Wells Circuit Court; *Frank W. Gordon*, Judge.

Action by Abram Simmons against John A. Byrd and others. From a judgment for defendants, the plaintiff appeals. *Affirmed.*

Abram Simmons and *Charles G. Dailey*, for appellant.

U. S. Lesh, Attorney-General, *Virgil M. Simmons* and *W. H. Eichhorn*, for appellees.

George H. Batchelor, *Amicus Curiae.*

EWBANK, J.—The sole question presented by the record and discussed in the briefs of counsel is whether or

not the several laws enacted by the legislature of Indiana requiring voters to register before taking part in elections were made unconstitutional and void by the amendment of Art. 2, §2, of the Constitution of Indiana on September 6, 1921. Appellant filed his complaint as a citizen, qualified voter and taxpayer, on behalf of all taxpayers of the State of Indiana, against the appellees, as public officers charged with duties under the provisions of the registration laws, seeking to enjoin appellees from doing any acts or incurring any expense under said laws, in the registration of the voters of Wells county, Indiana, where all the parties reside. The circuit court sustained a demurrer to appellants' complaint and he appealed, and has assigned that ruling as error.

The statutes thus attacked provide, in substance, as follows: (a) That no person may vote at any general election unless registered; (b) that the expenses of registration shall be paid out of the county treasury; (c) that precinct boundaries shall be established in March before the election; (d) that five days before the first date for registration an inspector and two clerks shall be appointed in a manner as stated; (e) that they shall hold a regular session on the fifty-ninth day before the election, and again on the twenty-ninth day before the election at a suitable room in the precinct, provided by the county board of commissioners, of which notice shall be given by publication and posting; (f) that blanks with spaces for the residence, age, where born, when arrived in the United States, when and where declared intention, and when and where naturalized, shall be furnished by the county auditor, and also blank books in which to record the names of persons registered, with such information concerning each of them; (g) that the registration blanks shall be distributed to the voters for use by them; (h) that every person residing in a precinct on the registration date, who will be qualified to vote if he continues to reside there until election day

shall be entitled to register, but no one else; (i) that the board shall keep open from 8:00 a.m. until 9:00 p.m. each of the two registration days; (j) that an applicant for registration, in person, may present his application, duly filled out and signed by such applicant, or duly attested by a person who knows him, if he signs by a mark, or (k) he may cause his application, so prepared and signed, to be delivered to the board on a registration day, by a voter of the precinct in which he resides, or (l) may mail it to the auditor of the county, to be by him delivered to the registration board; and (m) provision is made for transferring to the registration books of the proper precinct any names registered in the wrong precinct by mistake; (n) that a person offering to vote has not registered is made grounds for challenge, when the person challenged shall not be permitted to vote until he makes affidavit that he is the identical person registered under the name in which he offers to vote, and if his name is not on the registry his vote shall not be received even though he be not challenged; (o) after once registering a voter need not register again so long as he lives in the same precinct, and has not been disfranchised, unless a new registration is petitioned for by 300 resident freehold voters; (p) the county auditor and election officers being charged with certain duties in the matter of striking off the names of persons who have died or been disfranchised, or of whose removal from the precinct they receive information, verified by affidavit. §6977x2 *et seq.* Burns' Supp. 1921, Acts 1919 p. 736; §6977f3 Burns' Supp. 1921, Acts 1920 (Spec. Ses.) p. 38; §6977w3 *et seq.* Burns' Supp. 1921, Acts 1921 p. 846.

The specific objection to the constitutionality of these statutes urged by appellant is that Art. 2, §2, of the Constitution of Indiana was so amended, as a result of the special election on September 6, 1921, as to eliminate therefrom the words "if he shall have been duly registered according to law," which had theretofore fol-

lowed and modified the enumeration of the qualifications which should entitle a person to vote. And while Art. 2, §14, of the Constitution still reads as it did before such amendment of the other section was made, and concludes with a provision that the general assembly "shall also provide for the registration of all persons entitled to vote," appellant insists that this does not confer authority to enact the laws in question.

A brief has been filed under leave of court by an *amicus curiae*, in which he suggests that the judgment should be affirmed because the last amendment to

1. Art. 2, §2, of the Constitution was not adopted by the vote of "a majority of the electors of the state," within the meaning of Article 16 of the Constitution (§233 Burns 1914), which authorizes the adoption of amendments.

In construing the words "a majority of the electors," it is proper to consider the facts which attended the insertion of those words in the constitution. Article 5, §1, of the Constitution of 1816, provided that every twelfth year thereafter, at the general election for governor, a vote should be taken on the question of calling a convention to revise, amend or change that constitution, and that if "a majority of all the votes given at such election" should be in favor of a convention the governor should inform the general assembly thereof, whose duty it should be to provide by law for holding such a convention. R. S. 1843, p. 57. And the act of February 14, 1 [85] 1, under which the present constitution was submitted to popular vote for ratification or rejection, provided that "if it shall appear that a majority of all the votes polled at such election were given in favor of the adoption of said constitution, it shall then become the constitution of the State of Indiana," etc. Acts 1851 p. 54.

The amendments by which the words "if he shall have been duly registered according to law" were added to Art. 2, §2 (§84 Burns 1914), and the provision that the

general assembly "shall also provide by law for the registration of all persons entitled to vote" was added to Art. 2, §14, were adopted March 14, 1881, at a special election at which only 172,915 persons voted, of whom less than 170,000 voted on the subject of adopting or rejecting those two amendments, although 470,672 votes had been cast for candidates for the office of presidential electors in November, 1880, only four months before such election, and even more (470,738) for candidates for governor in October, and the United States census of 1880 showed 498,437 men of the age of twenty-one years and over, living in the state. But the governor, acting upon a certificate of the secretary of state as to the result of the election, issued his proclamation declaring the amendment adopted (Report Secy. of State 1881 p. 155), and his action has ever since been acquiesced in by all the people of the state.

The insistence by the *amicus curiae* that the amendment for which a majority of the persons (210,816 in number) who voted at the special election on September 6, 1921, cast their ballots (Indiana year book 1921 p. 12), was not adopted, is based upon the assumption that only a small part of the qualified voters of the state took part in that election, and that the number who actually voted in favor of adopting it were not a majority of those qualified to vote, as shown by the United States census and the returns from the Presidential election in 1920. It appears from the census returns in that year that 1,779,820 persons of the age of twenty-one years and over were living in the State of Indiana, and from the election returns that 1,262,964 qualified persons actually voted for presidential electors in November, 1920, only ten months before the special election at which the constitutional amendments were submitted (Indiana year book 1920 p. 62). But it further appears that the governor, acting upon a certificate of the secretary of state as to the result of the election, issued his proclamation declaring that the amendment in ques-

tion had been adopted and was in force (1 Record of Proclamations p. 457).

It thus appears that the amendment of 1921 was adopted by a majority of the votes cast at a special election at which less than half of the qualified voters, as shown by the census and the returns from the general election, actively participated, but in exactly the same way that the amendments of 1881 were adopted.

From what has been said it is apparent that if we should apply the rule that an amendment to the constitution cannot be adopted by the vote of a majority of all the electors who cast ballots at the election at which it is submitted, but can only be adopted by the affirmative vote of a majority of all those in the state who are entitled to vote, as that number is ascertained in another way than by counting those participating in such election, the application of such rule would not aid the appellee. If the enactment of a registry law is authorized and commanded by the constitution, it is because of amendments which were adopted only by a majority of the voters, cast at a special election when those who voted were less than half the qualified electors, as determined by such tests.

And the constitution, itself, was adopted at an election held under a law which made "a majority of all the votes polled at such election" decisive of the question whether or not it should be adopted.

This argument as a cause for affirming the judgment, therefore, breaks under its own weight, and we shall not further consider it.

Prior to 1881 the Constitution of Indiana had not mentioned the subject of registering voters. On March

14 of that year a special election was held, pursuant to a statute (Acts 1881 p. 30) and proclamation (Report Secy. of State 1881 p. 148), at which certain amendments of the constitution were submitted for adoption by popular vote, and the secretary of state having certified the vote to the governor, he issued

a proclamation declaring the amendments adopted, including amendments of §§2 and 14 of Article 2, and that "each of said amendments is now part of the Constitution of the State of Indiana." Report Secy. of State 1881 pp. 153, 155. Such action has been acquiesced in ever since by the people of the state and all departments of the state government. Of the amendments so adopted, §14 of Article 2 remains unchanged, and reads as follows: "All general elections shall be held on the first Tuesday after the first Monday in November; but township elections may be held at such time as may be provided by law; Provided, that the general assembly may provide by law for the election of all judges of courts of general and appellate jurisdiction by an election to be held for such officers only; and shall also provide for the registration of all persons entitled to vote."

Nine years after the adoption of these amendments, Judge Olds, speaking for the Supreme Court of Indiana, said: "In 1881 the electors of the State by a majority vote of over eighty-seven thousand, amended section 14 of article 2 of the Constitution so as to provide that the 'General Assembly * * * shall provide for the registration of all persons entitled to vote' * * * That the General Assembly has the power to enact a law providing for a uniform system of registration of all voters, we think, can not be controverted, and that it is made the duty of the General Assembly by the Constitution to enact a law providing a reasonable, uniform and impartial system for the registration of all voters must be conceded * * *." *Morris v. Powell* (1890), 125 Ind. 281, 285, 286, 25 N. E. 221, 9 L. R. A. 326. Five years later Judge Coffey speaking for the court, in setting out the provisions of the Constitution bearing upon the validity of the Registration Law of 1891 (Acts 1891 p. 350), recited all of §2, Art. 2, except the words "if he shall have been duly registered according to law," and said that: "Section 14, Art. 2, provides for a general registration law," without intimating

an opinion that §2 made any such provision. *Brewer, Aud., v. McClelland* (1895), 144 Ind. 423, 425, 32 N. E. 299.

The construction thus given to §14 of Art. 2, that it authorizes and commands the general assembly to "provide for the registration of all persons entitled to vote," has not since been challenged so far as we know until a different construction was suggested by the brief filed by appellant. We think that when this section says that the general assembly shall provide for the registration of "all persons entitled to vote," it means persons entitled to vote at all elections, and not merely at elections for judges, in case they are elected separately, as appellant suggests. As so interpreted this section of the constitution gives the legislature power to enact a registration law, notwithstanding the amendment of §2, Art. 2, provided such law does not violate any other provisions of the constitution. See *Morris v. Powell, supra*; *Brewer v. McClelland, supra*.

But it is urged that the provisions in the registration laws that no person may vote unless he is registered,

and that if a person offering to vote has not reg-

3. istered such fact shall be cause for challenging

and excluding his vote, make the statutes conflict with Art. 2, §2, of the Constitution, as amended. That section, as adopted in 1921, reads as follows: "In all elections not otherwise provided for by this constitution, every citizen of the United States of the age of twenty-one years and upwards, who shall have resided in the State during the six months and in the township sixty days, and in the ward or precinct thirty days immediately preceding the election, shall be entitled to vote in the township or precinct where he or she may reside."

Article 2, §1, provides that "All elections shall be free and equal." And as §14 of Art. 2, recited above, had given the general assembly specific authority to "provide for the registration of all persons entitled to vote," if the language quoted from Art. 2, §2, be open to

a fair and reasonable construction which will not make the two sections conflict with each other that construction is to be preferred.

The precise question under consideration was presented to the Supreme Court of Illinois, where it was objected that a registry law, by forbidding any person to vote unless he should have registered on the fourth Tuesday or the third Wednesday before the election, violated the provisions of a section of the constitution which declared every male citizen above the age of twenty-one years entitled to vote after having resided in the state one year and in the county ninety days, and in the election district thirty days, next preceding the election. After deciding that the legislature had power to enact a reasonable registry law, the court, in holding the law under consideration to be valid, said: "First, the legislature possesses all the law-making power of the State, which the constitution does not expressly or impliedly prohibit it from exercising. * * * Second, by prescribing certain qualifications for voters, the constitution necessarily intended that the legislature should provide some mode of ascertaining and determining the existence of those qualifications. A registry law is merely a mode of ascertaining and determining whether or not a man possesses the necessary qualifications of a voter. * * * There must be some *tribunal* to decide, whether or not a person is a citizen of the United States over twenty-one years of age, and has resided in the State one year, in the county ninety days, and in the district thirty days. There must be some fixed *rules and regulations*, by which such tribunal is to be guided, in determining this fact of citizenship and these periods of residence. There must be a *statute*, which shall designate the tribunal and prescribe the rules and regulations. The passage of such a statute is the legitimate province of the legislature alone. * * * It is said, that the legislature has no authority to require, that the registry be closed three weeks

before the election; that it has no authority to prohibit a man from voting, because he has not established his qualifications three weeks before the day for voting arrives. * * * If it be admitted, that the legislature can require a voter to establish his qualifications *before elections*, it is difficult to see why, upon principle, or as a question of power, it can not require such proof to be made, as well three weeks before the day for voting, as ten days, or five days, or even one year, prior thereto. The real question involved in the objection is, whether any man can be prevented from voting, who proves, or offers to prove, on the day, on which he seeks to cast his ballot, that he is a legal voter. If cases can be supposed, where the 'three weeks' requirement will deprive qualified electors of the privilege of depositing their votes, cases can also be supposed, where one day's requirement will work the same result. This mode of reasoning, carried out to its logical sequence, will make any kind of a registry law unconstitutional. For it would be a physical impossibility for the judges of election to receive the votes and make up the registry at the same time and on the same day. If the legislature has the power to direct the registry to be completed before election day, and if, in its wisdom and under a sense of its responsibility to the people, it has said that three weeks before election is a reasonable date for the completion of the registry, shall this court substitute *its judgment* for that of the law making power, and say that a shorter time would have been more reasonable? * * * It may be, that as much as three weeks will be required to make such investigations as are necessary to determine the qualifications of the electors. The register must be made, as nearly as possible, a correct record of qualified voters. The names of those who are not entitled to vote, must be kept from the lists. The names, which may have been placed there by false or perjured testimony, must be erased. * * * All parts of the constitution must be construed together. If

there is a provision, that all persons, possessing certain qualifications, shall be entitled to vote, there is also a provision, that all elections shall be free and equal. It is as much the duty of the legislature to pass measures for carrying the latter as for carrying the former provision, into effect. (Sec. 19 of schedule, to constitution.) If closing the registry three weeks before election may deprive a few persons, * * *, of the privilege of casting their ballots, keeping it open until a later date may admit to the polls hundreds of persons, who should never have been allowed to vote. When the ballot-box becomes the receptacle of fraudulent votes, the freedom and equality of elections are destroyed. * * * Where the law-making department of the government, in the exercise of a discretion not prohibited by the constitution, has declared that a certain period of time is needed for a specified investigation, it is not the duty of this court to declare, that such period is unreasonably long." *People v. Hoffman* (1886), 116 Ill. 587, on pp. 611, 56 Am. Rep. 793.

The reasoning in the case cited is unanswerable. Being charged by the constitution with the duty to "provide for the registration of all persons entitled to vote," and to enact such laws governing registration and the holding of elections that "all elections shall be free and equal," the legislature has power to determine what regulations shall be complied with by a qualified voter in order that his ballot may be counted, so long as what it requires is not so grossly unreasonable that compliance therewith is practically impossible. Requiring voters to appear at the polling booth between certain hours on election day and to cast their ballots in person, involves inconvenience, and some voters find themselves unable to attend at the time fixed. But that fact does not make a statute unconstitutional which provides when the polls shall open and close, and permits none to vote except those who cast their ballots in person during the hours when they are open. And since the legislature has power

to provide by law for the registration of all voters, it has power to exclude from the privilege of voting those persons who refuse or neglect to register a reasonable number of days before the election.

The Constitution requires that all persons shall reside in a precinct thirty days before they can vote therein, and the provision contained in the registry laws

4. that voters shall register twenty-nine days before the election is not such an abuse of the legislative discretion that the courts can declare the laws void.

The several statutes under consideration are not unconstitutional for any of the reasons urged against them. *Byler v. Asher* (1868), 47 Ill. 101; *State v. Butts* (1884), 31 Kans. 537, 2 Pac. 618; *Moore v. Sharp* (1896), 98 Tenn. 491, 41 S. W. 587; *State v. Ruhe* (1898), 24 Nev. 251, 52 Pac. 274; *In re Polling Lists* (1881), 13 R. I. 729.

The judgment is affirmed.

Townsend, J., concurs in the conclusion.

641. REPUBLICAN STATE PLATFORM, May 25, 1922

The only reference to constitutional questions in the state platform of any political party was contained in a plank of the Republican platform adopted on May 25, 1922.

Platform of Republican Party, 1922:

“ . . . The Republican party is proud of the fact that a Republican Legislature submitted to the people the constitutional amendment requiring full citizenship for suffrage, which is now a part of our State Constitution.”

THE SEVENTY-THIRD GENERAL ASSEMBLY, 1923

The House of Representatives of the Seventy-third General Assembly which convened on January 4 and adjourned on March 5, 1923 consisted of 52 Republicans and 48 Democrats, and the Senate consisted of 32 Republicans and 18 Democrats. Warren T. McCray (Rep.) was governor. The constitutional amendments which had been proposed in 1919 and agreed to in 1921 were definitely disposed of at the special election of September 6, 1921 and hence the General Assembly of 1923 was competent to propose any number of new amendments which it might desire.

Accordingly, during the session of 1923, eleven amendments were proposed and defeated and four amendments were proposed and adopted and referred to the General Assembly of 1925. The amendments which were proposed and adopted prohibited increases in the salaries and extensions of the terms of public officials during the terms for which they are elected or appointed; authorized the General Assembly to impose and collect a tax on incomes; based the apportionment of members of the General Assembly on the vote cast for secretary of state; and provided for the classification of counties, townships, cities, and towns for the registration of voters.

The amendments which were proposed and defeated were designed to provide that any amendment to the Constitution which received a majority of the votes cast on the amendment should be considered ratified; authorizing the governor to veto items in appropriation bills; authorizing the General Assembly to create such county offices as may be deemed necessary; authorizing the General Assembly to classify counties, cities, towns, and townships for the registration of voters and providing that no person should be eligible to register unless he had paid all taxes assessed against him; providing for divided sessions of the General Assembly; providing that the sessions of the General Assembly shall be held in even-numbered years; providing for the impeachment and removal of prosecuting attorneys; granting the state the right to a change of venue in criminal cases; effecting a change in the provision relating to the right of trial by jury; fixing the terms of county officers at four years; requiring a two-thirds vote in each house to override the governor's veto and authorizing the governor to veto items in appropriation bills.

642. GOVERNOR'S MESSAGE, January 4, 1923:
CONSTITUTIONAL AMENDMENTS

In his biennial message to the General Assembly, delivered on January 4, 1923, Governor Warren T. McCray urged the General Assembly to re-adopt the amendments which had been defeated at the special election of September 6, 1921. He also recommended that amendments be proposed providing that (1) a majority of the votes cast on a constitutional amendment and not a majority of the votes cast at the election at which the amendment is submitted be sufficient to ratify a constitutional amendment;¹ and that (2) the time for the General Assembly to convene be changed.²

Senate Journal, Seventy-third Assembly, 1923, pp. 12-13:

I have always regarded it as extremely unfortunate that some of the amendments to the State Constitution voted upon in September, 1921, failed to carry.

Several of these amendments would have led to reforms most helpful in the administration of State affairs. It was discouraging to find the general public so little interested in these vital matters of State government. The record of the vote disclosed the astonishing fact that only 17 per cent of the voters of Indiana took sufficient interest and time to go to the polls and register their opinion.

Some of the amendments then proposed should again be introduced, and started on the way prescribed by our Constitution.

Another amendment to be offered for your consideration will provide that amendments to the State Constitution shall stand or fall on the majority of votes cast upon each amendment proposed. More than half the States only require a majority of the vote cast on the question to ratify a constitutional amendment.

In addition I would suggest that a further amendment be offered, convening the General Assembly at the beginning of the second and fourth years of the Governor's term. As it is now a newly elected Governor enters upon his duties in the midst of a session of the legislature. He should have opportunity to acquire full information re-

¹ See Document No. 643.

² See Document No. 657.

garding intimate details of the State's business before being called on to pass upon the intricate and important matters involved. Such an amendment would give the Governor one year to prepare himself thoroughly to make recommendations to the first session and also would give a year following the second session to put into effect the statutes enacted by that body.

643. JOINT RESOLUTION: METHOD OF AMENDING THE CONSTITUTION

On January 9, 1923, Senator William E. English (Rep.) introduced Senate Joint Resolution No. 1 proposing an amendment to sections 1 and 2 of Article XVI of the Constitution. The proposed amendment was designed to provide that a majority of the electors voting on a constitutional amendment, instead of a majority of the electors participating in the election at which an amendment is submitted, be sufficient to ratify an amendment. This resolution was read the first time on January 9 and was referred to the Committee on Constitutional Revision; on January 17 it was reported for passage and concurred in; on January 22 it was read the second time and ordered engrossed; on February 2 it was read the third time and defeated by a vote of 16-28. Of the 16 affirmative votes, 14 were cast by Republicans and 2 by Democrats; of the 28 negative votes, 14 were cast by Republicans and 14 by Democrats.

Senate Journal, Seventy-third Assembly, 1923, pp. 33-34:

A joint resolution to amend Sections one (1) and two (2), Article sixteen (XVI), of the Constitution of the State of Indiana, relating to the method of amending said Constitution.

Section 1. Be it resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the Seventy-third (73rd) General Assembly of the State of Indiana, and is referred to the next General Assembly of the State for reconsideration and agreement.

Sec. 2. That Sections one (1) and two (2), Article sixteen (XVI), of the Constitution of the State of Indiana be amended to read as follows: Section 1. Any

amendment or amendments to this Constitution may be proposed in either branch of the General Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments, shall, with the yeas and nays thereon, be entered on their journals and referred to the General Assembly to be chosen at the next general election; and, if in the General Assembly so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the General Assembly to submit such amendment or amendments to the electors of the State, and if a majority of said electors *voting thereon* shall ratify the same, such amendment or amendments shall become a part of this Constitution.

Sec. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

644. JOINT RESOLUTION, February 26, 1923:

TERMS AND SALARIES OF PUBLIC OFFICERS

On January 10, 1923 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 2 proposing an amendment to section 2 of Article XV of the Constitution. The proposed amendment was designed to prohibit increases in the salaries of, and extensions in the terms of, public officials during the terms for which they are elected or appointed.³ This resolution was read the first time on January 10 and was referred to the Committee on Constitutional Revision; on January 17 it was reported for passage and concurred in; on January 22 it was read the second time and ordered engrossed; on January 31 it was read the third time, passed by a vote of 41-0, and was referred to the House.

The resolution was received by the House on February 1, was read the first time and referred to the Committee on Judiciary A; on February 9 it was read the second time and ordered engrossed; on February 20 it was read the third time, passed by a vote of 72-3, and was returned to the Senate. The resolution was approved by the governor on February 26.

³ This proposed amendment is identical with Amendment No. 13, which was defeated at the election of September 6, 1921. See Document No. 638.

Laws of Indiana, 1923, pp. 575-76:

CHAPTER 196.

A JOINT RESOLUTION to amend section two (2) of article fifteen (XV) of the constitution of the State of Indiana by providing against increase of terms and salaries of officers during their official terms.

[S. 2. Joint Resolution. Approved February 26, 1923.]

SECTION 1. *Be it enacted [resolved] by the general assembly of the State of Indiana*, That the following amendment to the constitution of the State of Indiana is hereby proposed and agreed to by this, the seventy-third (73d) general assembly of the State of Indiana and is referred to the next general assembly of the state for reconsideration and agreement.

SEC. 2. That section two (2) of article fifteen (XV) of the constitution of the State of Indiana be amended to read as follows: Sec. 2. When the duration of any office is not provided for by this constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the general assembly shall not create any office, the tenure of which shall be longer than four (4) years, nor shall the term of office or salary of any officer fixed by this constitution or by law be increased during the term for which such officer was elected or appointed.⁴

645. JOINT RESOLUTION: VETO OF ITEMS IN
APPROPRIATION BILLS

On January 10, 1923 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 3 proposing an amendment to section 14 of Article V of the Constitution. The proposed amendment was designed to authorize the governor to veto items in appropriation bills. This resolution was read the first time on January 10 and was referred to the Committee on Constitutional Revision; on January 17 it was reported for passage and concurred in; on January 22 it was read the second time and ordered engrossed; on January 25 it was read the third time, passed by a vote

⁴ See Documents Nos. 544, 602, and 635. In the General Assembly of 1925 this amendment was incorporated in Senate Joint Resolution No. 2. See Document No. 661.

of 26-19, and was referred to the House. Of the 26 affirmative votes, 23 were cast by Republicans and 3 by Democrats; of the 19 negative votes, 13 were cast by Democrats and 6 by Republicans. The resolution was received by the House on January 26 and was referred to the Committee on Judiciary A. On February 1, on recommendation of the committee, further action on the resolution was indefinitely postponed.

Senate Journal, Seventy-third Assembly, 1923, pp. 39-40:

A Joint Resolution to amend Section fourteen (14) of Article five (V) of the Constitution of the State of Indiana by authorizing the Governor to veto items in bills making appropriations of money.⁵

646. JOINT RESOLUTION, February 7, 1923:
INCOME TAX

On January 11, 1923 Senators Claude S. Steele (Rep.) and Winfield Miller (Rep.) introduced Senate Joint Resolution No. 4 proposing an amendment to Article X of the Constitution by adding thereto a new section to be numbered section 8. The proposed amendment was designed to provide for the levy and collection of an income tax.⁶ This resolution was read the first time on January 11 and was referred to the Committee on Finance; on January 17 it was withdrawn from the Committee on Finance and referred to the Committee on Constitutional Revision; on January 17 it was reported for passage and concurred in; on January 22 it was read the second time and ordered engrossed; on January 23 it was read the third time, passed by a vote of 27-22, and was referred to the House. Of the 27 affirmative votes, 19 were cast by Republicans and 8 by Democrats; of the 22 negative votes, 10 were cast by Democrats and 12 by Republicans.

The resolution was received by the House on January 24 and was referred to the Committee on Ways and Means; on January 26 it was reported for passage and concurred in; on January 30 it was read the second time and ordered engrossed; on January 31 it was read the third time, passed by a vote of 59-15, and was returned to the Senate. Of the 59 affirmative votes, 33 were cast by Republicans and 26 by Democrats; of the 15 negative votes,

⁵ This proposed amendment is identical with Amendment No. 4, which was defeated at the election of September 6, 1921. See Document No. 638 for text of the amendment. See also Documents Nos. 580, 593, and 625.

⁶ This proposed amendment is identical in purpose with Amendment No. 11, which was defeated at the election of September 6, 1921. There are, however, slight differences in the wording. See Document No. 638. See also Documents Nos. 600 and 633.

4 were cast by Republicans and 11 by Democrats. The resolution was approved by the governor on February 7.

Laws of Indiana, 1923, p. 575:

CHAPTER 195.

A JOINT RESOLUTION to amend article ten (10) of the constitution of the State of Indiana by adding thereto a new section to be numbered section eight (8), relating to taxes on income.

[S. 4. Joint Resolution. Approved February 7, 1923.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana*, That the following amendment is hereby proposed and agreed to by this the seventy-third (73) general assembly of the State of Indiana and is referred to the next general assembly of the State of Indiana for reconsideration and agreement.

SEC. 2. That article ten (10) of the constitution of the State of Indiana be amended by adding thereto a new section to be designated and numbered as section eight (8) to read as follows: Sec. 8. The general assembly may levy and collect a tax upon income, from whatever source derived, at such rates, in such manner, and with such exemptions as may be prescribed by law.⁷

647. JOINT RESOLUTION, February 26, 1923:

APPORTIONMENT

On January 11, 1923 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 5 proposing an amendment to sections 4 and 5 of Article IV of the Constitution. The proposed amendment was designed to provide that the apportionment of members of the General Assembly be based on the vote for secretary of state instead of on the sexennial enumeration of voters.⁸ This resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 17 it was reported favorably and concurred in; on January 22 it was read the second time and ordered engrossed; and on January 30 it was read the third time, passed by a vote of 32-9 and was referred to the House. Of the 32 affirmative votes, 24 were cast by Re-

⁷In the General Assembly of 1925 this amendment was incorporated in Senate Joint Resolution No. 4. See Document No. 662.

⁸With the exception of the dates indicated, this proposed amendment is identical with Amendment No. 3 which was defeated at the election of September 6, 1921. See Document No. 638. See also Documents Nos. 611 and 623.

publicans and 8 by Democrats; of the 9 negative votes, all were cast by Democrats.

The resolution was received by the House on January 31, was read the first time and referred to the Committee on Judiciary A; on February 6 it was reported for passage and concurred in; on February 9 it was read the second time and ordered engrossed; and on February 20 it was read the third time, passed by a vote of 53-31 and was returned to the Senate. Of the 53 affirmative votes, 41 were cast by Republicans and 12 by Democrats; of the 31 negative votes, 2 were cast by Republicans and 29 by Democrats. The resolution was approved by the governor on February 26.

Laws of Indiana, 1923, pp. 576-77:

CHAPTER 197.

A JOINT RESOLUTION to amend sections four (4) and five (5) of article four (IV) of the constitution of the State of Indiana, relating to the ascertainment of the number of voters, the number of state senators and representatives and the apportionment thereof among the counties.

[S. 5. Joint Resolution. Approved February 26, 1923.]

SECTION 1. *Be it enacted [resolved] by the general assembly of the State of Indiana*, That the following amendment to the constitution of the State of Indiana is hereby proposed and agreed to by this, the seventy-third (73d) general assembly of the State of Indiana and is referred to the next general assembly of the state for reconsideration and agreement.

SEC. 2. That sections four (4) and five (5) of article four (IV) of the constitution of the State of Indiana be amended to read as follows: Sec. 4. The general assembly shall during the period between the general election in the year 1928 and the convening of the legislature in 1929, and every sixth year thereafter, cause to be ascertained the number of votes cast for all of the candidates for secretary of state in the different counties at the last preceding general election.

SEC. 5. The number of senators and representatives shall, at the session next following each period when the number of votes cast for the office of secretary of state shall be ascertained, be fixed by law, and apportioned among the several counties, according to the number of

votes so cast for all of the candidates for the office of secretary of state at such last preceding general election.⁹

648. JOINT RESOLUTION, March 1, 1923:
REGISTRATION OF VOTERS

On January 11, 1923 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 6 proposing an amendment to section 14 of Article II of the Constitution. The proposed amendment was designed to authorize the General Assembly to classify counties, townships, cities, and towns for the purpose of registering voters.¹⁰ This resolution was read the first time on January 11 and was referred to the Committee on Constitutional Revision; on January 17 it was reported for passage and concurred in; on January 22 it was read the second time and ordered engrossed; on January 29 it was read the third time, passed by a vote of 37-4, and was referred to the House.

The resolution was received by the House on January 29; on January 30 it was read the first time and referred to the Committee on Judiciary A; on February 1 it was reported for passage and concurred in; on February 5 it was read the second time, amended, and ordered engrossed; later the same day, the vote by which the resolution was amended, was reconsidered and the amendment was rejected; on February 20 the resolution was read the second time, passed by a vote of 69-11, and was returned to the Senate. Of the 69 affirmative votes, 42 were cast by Republicans and 27 by Democrats; of the 11 negative votes, all were cast by Democrats. The resolution was approved by the governor on March 1.

Laws of Indiana, 1923, p. 577:

CHAPTER 198.

A JOINT RESOLUTION to amend section fourteen (14) of article two (2) of the constitution of the State of Indiana by authorizing the classification of the counties, townships, cities and towns of the state for the purpose of providing for the registration of persons entitled to vote.

[S. 6. Joint Resolution. Approved March 1, 1923.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana, That the following amendment to*

⁹ In the General Assembly of 1925 this amendment was incorporated in Senate Joint Resolution No. 5. See Document No. 663.

¹⁰ This proposed amendment is identical with Amendment No. 2, which was defeated at the election of September 6, 1921. See Document No. 638. See also Documents Nos. 578, 591, and 622.

the constitution of the State of Indiana is hereby proposed and agreed to by this the seventy-third (73rd) general assembly of the State of Indiana and is referred to the next general assembly of the state for reconsideration and agreement.

SEC. 2. That section fourteen (14) of article two (2) of the constitution of the State of Indiana be amended to read as follows: Sec. 14. All general elections shall be held on the first Tuesday after the first Monday in November; but township elections may be held at such time as may be provided by law: *Provided*, That the general assembly may provide by law for the election of all judges of courts of general or appellate jurisdiction, by an election to be held for such officers only, at which time no other officer shall be voted for; and may also provide for the registration of all persons entitled to vote. In providing for the registration of persons entitled to vote the general assembly shall have power to classify the several counties, townships, cities and towns of the state into classes, and to enact laws prescribing a uniform method of registration in any or all of such classes.¹¹

649. JOINT RESOLUTION: COUNTY OFFICERS

On January 23, 1923 Willis E. Gill (Dem.) introduced House Joint Resolution No. 3 proposing an amendment to section 2 of Article VI of the Constitution. The proposed amendment was designed to authorize the General Assembly to create such county offices as might be deemed necessary. This resolution was read the first time on January 23 and was referred to the Committee on Judiciary A. On January 24, on recommendation of the committee, the resolution was indefinitely postponed.

Original House Joint Resolution No. 3:

A Joint Resolution to amend section 2 of Article VI of the Constitution of the state of Indiana, relating to county officers.

Section 1. Be it Resolved by the General Assembly of

¹¹ In the General Assembly of 1925 this amendment was incorporated in Senate Joint Resolution No. 6. See Document No. 664.

the State of Indiana, That the following amendment to the Constitution of the state of Indiana is hereby proposed and agreed to by this, the Seventy-Third General Assembly, and is hereby referred to the next General Assembly for reconsideration and agreement.

Sec. 2. That section 2 of Article VI of the Constitution of the state of Indiana be amended to read as follows: Section 2. Such county officers as may be necessary shall be elected or appointed in such manner as may be prescribed by law.

Sec. 3. Nothing in this amendment contained shall be construed to abridge the term of any county officer who is in office at the time of the ratification of this amendment, but any such officer shall serve out the term for which he was elected. Any person who is elected to any county office at the election at which this amendment is ratified, or prior thereto, shall assume office and serve out the term for which he was elected as he would have done if this amendment had not been adopted.

650. JOINT RESOLUTION: REGISTRATION OF VOTERS

On January 24, 1923 Edgar A. Perkins (Dem.) introduced House Joint Resolution No. 5 proposing an amendment to section 14 of Article II of the Constitution. The proposed amendment was designed to authorize the General Assembly to classify counties, townships, cities, and towns for the registration of voters, and to provide that no person be eligible to register unless he shall have paid all taxes assessed against him.¹² This resolution was read the first time on January 24 and was referred to the Committee on Judiciary A; on January 30 it was reported for passage and concurred in; on February 2 it was read the second time and ordered engrossed; on February 7 it was read the third time, and, on motion of its author, its further consideration was indefinitely postponed.

Original House Joint Resolution No. 5:

A Joint Resolution to amend section fourteen (14) of article two (II) of the Constitution of the State of Indi-

¹² This amendment is identical with Amendment No. 2, which was defeated at the election of September 6, 1921, and with Senate Joint Resolution No. 6, except for the provision that the payment of taxes is a necessary qualification for registration. See Documents Nos. 638 and 648.

ana by authorizing the classification of the counties, townships, cities and towns of the State for the purpose of providing for the registration of persons eligible to registration, and entitled to vote.

Section 1. Be it resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby proposed, agreed to by this, the seventy-third General Assembly of the State of Indiana, and is referred to the next General Assembly for reconsideration and agreement.

Section 2. That section fourteen (14) of article two (II) of the Constitution of the State of Indiana be amended to read as follows: Section 14.—All general elections shall be held on the first Tuesday after the first Monday in November; but township elections may be held at such time as may be provided by law; Provided, That the General Assembly may provide by law for the election of all judges of courts of general or appellate jurisdiction, by an election to be held for such officers only, at which time no other officer shall be voted for; and shall also provide for the registration of all persons eligible to registration and entitled to vote. No person shall be eligible to registration until he or she shall have paid all taxes assessed against him or her by authority of any law of the State and becoming due previous to the date fixed by law for such registration.

In providing for the registration of persons entitled to vote, the General Assembly shall have power to classify the several counties, townships, cities and towns of the State into classes, and to enact laws prescribing a uniform method of registration in such classes.

651. JOINT RESOLUTION: SESSIONS OF GENERAL ASSEMBLY

On February 5, 1923 Senator Andrew H. Beardsley (Rep.) introduced Senate Joint Resolution No. 9 proposing an amendment to section 9 of Article IV of the Constitution. The proposed amendment was designed to provide for a regular session of the

General Assembly of not to exceed 61 days, divided into a session of 30 days and a session of 31 days with an intervening vacation of 30 days. This resolution was read the first time on February 5 and was referred to the Committee on Constitutional Revision; on February 6 it was reported for passage and concurred in; on February 8 it was read the second time and ordered engrossed; on February 12 it was read the third time, passed by a vote of 26-19, and was referred to the House. Of the 26 affirmative votes, 19 were cast by Republicans and 7 by Democrats; of the 19 negative votes, 10 were cast by Democrats and 9 by Republicans.

The resolution was received by the House on February 13; on February 14 it was read the first time and referred to the Committee on Judiciary A; on February 20 the committee brought out a divided report, the majority report recommending passage and the minority report, indefinite postponement; the majority report was adopted; on February 28 the resolution was read the second time and passed to engrossment, but no further action was taken thereon.

Original Senate Joint Resolution No. 9:

A Joint Resolution proposing an amendment to section 9 Article IV, of the Constitution concerning the sessions of the General Assembly.

Section 1. Be it Resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the seventy-third General Assembly of the State of Indiana and is hereby referred to the next General Assembly for reconsideration and agreement.

Sec. 2. That section 9 of Article IV of the Constitution of the State of Indiana be amended to read as follows: Sec. 9. The sessions of the General Assembly shall be held biennially at the capital of the State, commencing on the Thursday next after the first Monday of January, in the year one thousand nine hundred and twenty-seven, and on the same day of every second year thereafter, unless a different day or place shall have been appointed by law, and shall continue in session for a period of not to exceed thirty days thereafter, whereupon a recess of both houses shall be taken for a period

of not less than thirty days. Upon the reassembling of the General Assembly, no bill shall be introduced in either house without the consent of three-fourths of the members thereof, nor shall any session of the General Assembly extend in the aggregate beyond a term of sixty-one days. But if, in the opinion of the Governor, the public welfare shall require it, he may at any time by proclamation, call a special session.

652. JOINT RESOLUTION: IMPEACHMENT OF PROSECUTING ATTORNEYS

On February 16, 1923 Paul D. Farley (Rep.) introduced House Joint Resolution No. 7 proposing an amendment to section 8 of Article VI of the Constitution. The proposed amendment was designed to provide for the impeachment and removal of prosecuting attorneys. This resolution was read the first time on February 16 and was referred to the Committee on Judiciary A. On February 20, on recommendation of the committee, further action on the resolution was indefinitely postponed.

Original House Joint Resolution No. 7:

A Joint Resolution proposing an amendment to Section 8 of Article VI of the Constitution of the State of Indiana by providing for the impeachment and removal of prosecuting attorneys.

Section 1. Be it Resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the seventy-third general assembly of the State of Indiana and is hereby referred to the general assembly of the State of Indiana to be chosen at the next general election.

Sec. 2. That section 8 of Article VI of the Constitution of the State of Indiana be amended to read as follows: Section 8. All state, county, township and town officers and prosecuting attorneys may be impeached, or removed from office, in such manner as may be prescribed by law.

653. JOINT RESOLUTION: CHANGE OF VENUE BY STATE

On February 16, 1923 Paul D. Farley (Rep.) introduced House Joint Resolution No. 8 proposing an amendment to section 13 of Article I of the Constitution. The proposed amendment was designed to secure to the state the right to a change of venue in criminal cases. This resolution was read the first time on February 16 and was referred to the Committee on Judiciary A. On February 20, on recommendation of the committee, the resolution was indefinitely postponed.

Original House Joint Resolution No. 8:

A Joint Resolution proposing an amendment to section 13 of article 1 of the constitution of the State of Indiana, concerning criminal prosecutions and the granting of changes of venue.

Section 1. Be it Resolved by the General Assembly of the State of Indiana, That the following amendment to the constitution of the State of Indiana is hereby proposed and agreed to by this the seventy-third general assembly of the State of Indiana, and is referred to the next general assembly of the State of Indiana for their consideration and agreement.

Section 2. That section 13 of article 1 of the constitution of the State of Indiana be amended to read as follows: Section 13. In all criminal prosecutions the accused shall have the right to a public trial, by an impartial jury; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor. The trial of such accused shall be held in the county in which the offense shall have been committed, except when the attorney-general of the state of Indiana shall deem it impossible to secure an impartial jury to serve in such trial in such county, or when such attorney-general shall deem it impossible for the state to secure an impartial trial in such county for other causes, in which event the prosecuting attorney in whose district the trial is to be held may show to the court having jurisdiction by affidavit that he believes such

matters to be true, and the judge of the court shall grant a change of venue to the most convenient adjoining county. The general assembly shall enact suitable laws for the carrying out and enforcement of this section.

654. JOINT RESOLUTION: TRIAL BY JURY

On February 16, 1923 Charles M. Trowbridge (Rep.) introduced House Joint Resolution No. 9 proposing an amendment to section 13 of Article I of the Constitution. The proposed amendment was designed to effect a change in the Constitution relative to trial by jury. This resolution was read the first time on February 16 and was referred to the Committee on Judiciary A. On February 20, on recommendation of the committee, the resolution was indefinitely postponed.

Original House Joint Resolution No. 9:

No copy of this resolution is on file.

655. JOINT RESOLUTION: TERMS OF COUNTY OFFICERS

On February 16, 1923 William A. Hill (Rep.) introduced House Joint Resolution No. 10 proposing an amendment to section 2 of Article VI of the Constitution. The proposed amendment was designed to fix the terms of county officers at four years. This resolution was read the first time on February 16 and was referred to the Committee on Judiciary A. On February 20, on recommendation of the committee, the resolution was indefinitely postponed.

Original House Joint Resolution No. 10:

A Joint Resolution to amend section 2, article VI of the Constitution of the State of Indiana by providing that terms of county officers shall be four years.¹³

656. JOINT RESOLUTION: VETO OF ITEMS IN APPROPRIATION BILLS

On February 16, 1923 Elizabeth Rainey (Rep.) introduced House Joint Resolution No. 11 proposing an amendment to section 14 of Article V of the Constitution. The proposed amendment was designed to require a two-thirds vote of each house to override the governor's veto, and to authorize the governor to veto

¹³ This proposed amendment is identical with Amendment No. 6 which was defeated at the election of September 6, 1921. See Document No. 638 for text of the amendment. See also Documents Nos. 547, 583, 596, and 627.

items in appropriation bills.¹⁴ This resolution was read the first time on February 23 and was referred to the Committee on Judiciary A. On February 20, on recommendation of the committee, the resolution was indefinitely postponed.

Original House Joint Resolution No. 11:

A Joint Resolution to amend section fourteen (14) of article five (5) of the constitution of the State of Indiana by authorizing the Governor to veto items in bills making appropriations of money.

Section 1. Be it Resolved by the General Assembly of the State of Indiana, That the following amendment to the constitution of the State of Indiana is hereby proposed and agreed to by this, the seventy-third (73) general assembly of the State of Indiana and is referred to the next general assembly of the state for reconsideration and agreement.

Sec. 2. That section fourteen (14) of article five (V) of the constitution of the State of Indiana be amended to read as follows: Section 14. Every bill which shall have passed the general assembly shall be presented to the Governor; if he approve, he shall sign it, but if not, he shall return it, with his objections, to the house in which it shall have originated, which house shall enter the objections at large upon its journals, and proceed to reconsider the bill. If, after such reconsideration, two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent, with the Governor's objections, to the other house, by which it shall likewise be reconsidered, and, if approved by two thirds of all the members elected to that house, it shall be a law. If any bill shall not be returned by the Governor within three days, Sundays excepted, after it shall have been presented to him, it shall be a law without his signature, unless the general adjournment shall prevent its return, in which case it shall be a law, unless the Governor, within five days next after such adjournment, shall file

¹⁴ This amendment is similar to Amendment No. 4 which was defeated at the election of September 6, 1921. See Document No. 638.

such bill, with his objections thereto, in the office of the secretary of state, who shall lay the same before the general assembly at its next session in like manner as if it had been returned by the Governor. But no bill shall be presented to the Governor within two days next previous to the final adjournment of the general assembly. The Governor shall have power to approve or disapprove any item or items of any bill making appropriations of money, embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriations disapproved shall be void unless repassed according to the rules and limitations prescribed in this section for the passage of bills over the executive veto. In case the [*Remainder of manuscript missing*]

657. JOINT RESOLUTION: SESSIONS OF GENERAL ASSEMBLY

On February 22, 1923 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 10 proposing an amendment to section 9 of Article IV of the Constitution. The proposed amendment was designed to provide for the meeting of the General Assembly in even- instead of odd-numbered years. This resolution was read the first time on February 22 and was referred to the Committee on Constitutional Revision; on February 23 it was reported for passage and concurred in; on February 26 it was read the second time and ordered engrossed; on February 28 it was read the third time and failed of passage for want of a constitutional majority. The vote was 21-18. Of the 21 affirmative votes, all were cast by Republicans; of the 18 negative votes, 15 were cast by Democrats and 3 by Republicans.

Original Senate Joint Resolution No. 10:

A Joint Resolution to amend section nine (9) article four (4) of the Constitution of the State of Indiana, by changing the date for the holding of the regular sessions of the General Assembly.

Section 1. Be it Resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby pro-

posed and agreed to by this the seventy-third (73rd) General Assembly of the State of Indiana and is referred to the next General Assembly of the State for reconsideration and agreement.

Sec. 2. That section nine (9) of article four (4) of the Constitution of the State of Indiana be amended to read as follows: Section 9. The sessions of the general assembly shall be held biennially at the capital of the State, commencing on the Thursday next after the first Monday of January, in the year one thousand nine hundred and twenty-eight (1928), and on the same day of every second year thereafter, unless a different day or place shall have been appointed by law. But if, in the opinion of the Governor, the public welfare shall require it, he may, at any time, by proclamation, call a special session.

658. SOCIALIST STATE PLATFORM, May 31, 1924

The only party which adopted a resolution relative to constitutional changes in 1924 was the Socialist Party, which met in convention on May 31, 1924. The plank of the Socialist platform relative to the Constitution was as follows:

Socialist Party *State Platform*, 1924:

1. Call a convention to adopt a State Constitution in keeping with the spirit of progress of the times, so as to

(a) Safeguard the rights of free speech, press and assembly and maintain them inviolate.

(b) Prevent the usurpation of power by the Courts, especially to grant injunctions without a jury trial in labor disputes.

(c) Establish the initiative, referendum and recall.

(d) Provide for the election of Legislators by proportional representation, so that the various parties may share in the government according to the vote they poll. Our ultimate aim being to obtain occupational instead of geographical representation.

(e) Grant self-government to municipalities over their own affairs.

THE SEVENTY-FOURTH GENERAL ASSEMBLY, 1925

The House of Representatives of the Seventy-fourth General Assembly which convened on January 8 and adjourned on March 9, 1925, consisted of 85 Republicans and 15 Democrats, and the Senate consisted of 32 Republicans and 18 Democrats. Ed Jackson (Rep.) succeeded Emmett F. Branch (Rep.) as governor on January 12, 1925. In compliance with the recommendation of Governor Branch in his last biennial message to the General Assembly, the four constitutional amendments which had been adopted by the General Assembly of 1923¹ were re-adopted by the General Assembly of 1925 and submitted to the voters.

659. GOVERNOR'S MESSAGE, January 8, 1925: CONSTITUTIONAL AMENDMENTS

In his last biennial message to the General Assembly, delivered on January 8, 1925, Governor Emmett F. Branch urged the General Assembly to re-adopt the constitutional amendments which had been adopted by the General Assembly of 1923, and to provide for their submission to the voters.

House Journal, Seventy-fourth Assembly, 1925, p. 29:

The legislature of 1923 passed certain amendments to the Constitution which I think are of importance and should have the favorable action on the part of this legislature that the same may be submitted to the voters of the State at the next general election.

660. LEGISLATIVE ACTION, January 15-20, 1925: PENDING AMENDMENTS

On January 15, 1925 "Senator English introduced Enrolled Joint Resolution No. 2²—4³—5⁴—6⁵ as follows:

"Joint resolution to amend article ten (10) of the Constitution of the State of Indiana by adding thereto a new section to be numbered section 8 relating to taxes on income.

"And moved the adoption of Enrolled Senate Joint Resolution 2—4—5—6, and that it be referred to Committee on Constitutional Revision."

The motion was adopted.

¹ See Documents Nos. 644, 646, 647, and 648.

² See Document No. 661.

⁴ See Document No. 663.

³ See Document No. 662.

⁵ See Document No. 664.

The resolutions here referred to are Senate Joint Resolutions Nos. 2, 4, 5, and 6 of the General Assembly of 1923 which were awaiting action by the General Assembly of 1925. As this method of introducing the pending amendments is invalid, the following report was made to the Senate on January 20:

"Senator English asked permission of the Senate to withdraw Enrolled Senate Joint Resolution Nos. 2, 5, 4 and 6 as the same appears in the volume entitled 'Enrolled Acts 1923' including special session of 1921 designated as Chapters 195, 196, 197 and 198 respectively, with permission to introduce said acts separately, which permission was granted."

661. JOINT RESOLUTION, February 14, 1925: TERMS AND SALARIES OF PUBLIC OFFICERS

On January 20, 1925 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 2⁶ agreeing to the amendment to section 2 of Article XV of the Constitution which was embodied in Senate Joint Resolution No. 2 of the General Assembly of 1923.⁷ This amendment was designed to prohibit an increase in the salaries of, and an extension of the terms of public officials during the terms for which they are elected. The amendment was read the first time on January 20 and was referred to the Committee on Constitutional Revision; on January 21 it was reported for passage and concurred in; on January 23 it was read the second time and ordered engrossed; on January 30 it was read the third time, passed by a vote of 44-0, and was referred to the House.

The resolution was received by the House on February 2, was read the first time and referred to the Committee on Judiciary A; on February 9 it was read the second time and ordered engrossed; on February 11 it was read the third time, passed by a vote of 79-1,⁸ and was returned to the Senate. The resolution was approved by the governor on February 14.⁹

Laws of Indiana, 1925, p. 625:

CHAPTER 223.

A JOINT RESOLUTION agreeing to a proposed amendment to section two (2) of article fifteen (XV) of the constitution of the State of Indiana.

[S. 2. Joint Resolution Approved February 14, 1925.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana, That the following proposed amend-*

⁶ See Document No. 660.

⁷ See Document No. 644.

⁸ The vote is given in the *House Journal* as 80-1, but the names listed total 79-1.

⁹ See Document No. 666, Amendment No. 3.

ment to the constitution of the State of Indiana, which was agreed to by the seventy-third general assembly and referred to this general assembly, be agreed to by this, the seventy-fourth general assembly of the State of Indiana:

That section two (2) of article fifteen (XV) of the constitution of the State of Indiana be amended to read as follows: Sec. 2. When the duration of any office is not provided for by this constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the general assembly shall not create any office, the tenure of which shall be longer than four (4) years, nor shall the term of office or salary of any officer fixed by this constitution or by law be increased during the term for which such officer was elected or appointed.¹⁰

662. JOINT RESOLUTION, February 14, 1925:
INCOME TAX

On January 20, 1925 Senator Claude S. Steele (Rep.) introduced Senate Joint Resolution No. 4¹¹ agreeing to the amendment of Article X of the Constitution, by adding thereto a new section to be numbered section 8, which was embodied in Senate Joint Resolution No. 4 of the General Assembly of 1923.¹² This amendment was designed to authorize the General Assembly to levy and collect an income tax. The amendment was read the first time on January 20 and was referred to the Committee on Constitutional Revision; on January 21 it was reported for passage and concurred in; on January 23 it was read the second time and ordered engrossed; on January 26 it was read the third time, passed by a vote of 40-5, and was referred to the House.

The resolution was received by the House on January 27, was read the first time and referred to the Committee on Judiciary A; on February 4 it was reported for passage and concurred in; on February 9 it was read the second time and ordered engrossed;

¹⁰ Each of the resolutions adopted in 1925 contained the following section which is not an essential part of the resolution:

"SEC. 2. The secretary of the senate is hereby ordered to spread this resolution and said proposal in full on the journal of this senate, and thereupon to transmit said proposal to the house of representatives for its action thereon."

¹¹ See Document No. 660.

¹² See Document No. 646.

on February 11 it was read the third time, passed by a vote of 62-18, and was returned to the Senate. Of the 62 affirmative votes, 53 were cast by Republicans and 9 by Democrats; of the 18 negative votes, 17 were cast by Republicans and 1 by a Democrat. The resolution was approved by the governor on February 14.

Laws of Indiana, 1925, p. 626:

CHAPTER 224.

A JOINT RESOLUTION agreeing to a proposed amendment to article ten (X) of the constitution of the State of Indiana by adding thereto a new section to be numbered eight (8), relating to taxes on income.

[S. 4. Joint Resolution Approved February 14, 1925.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana, That the following proposed amendment to the constitution of the State of Indiana, which was agreed to by the seventy-third general assembly and referred to this general assembly, be agreed to by this, the seventy-fourth general assembly of the State of Indiana:*

That article ten (X) of the constitution of the State of Indiana be amended by adding thereto a new section to be designated and numbered as section eight (8) to read as follows: Sec. 8. The general assembly may levy and collect a tax upon income, from whatever source derived, at such rates, in such manner, and with such exemptions as may be prescribed by law.¹³

663. JOINT RESOLUTION, February 14, 1925:
APPORTIONMENT

On January 20, 1925 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 5¹⁴ agreeing to the amendment to sections 4 and 5 of Article IV of the Constitution which was embodied in Senate Joint Resolution No. 5 of the General Assembly of 1923.¹⁵ This amendment was designed to base the apportionment of members of the General Assembly on the vote cast for secretary of state instead of the sexennial enumeration

¹³ See Document No. 666, Amendment No. 4.

¹⁴ See Document No. 660.

¹⁵ See Document No. 647.

of voters. The amendment was read the first time on January 20 and was referred to the Committee on Constitutional Revision; on January 21 it was reported for passage and concurred in; on January 23 it was read the second time and ordered engrossed; on January 28 it was read the third time, passed by a vote of 35-1 and was referred to the House.

The resolution was received by the House on January 29, was read the first time and referred to the Committee on Judiciary A; on February 4 it was reported for passage and concurred in; on February 9 it was read the second time and ordered engrossed; on February 11 it was read the third time, passed by a vote of 79-4, and was returned to the Senate. The resolution was approved by the governor on February 14.

Laws of Indiana, 1925, p. 624:

CHAPTER 222.

A JOINT RESOLUTION agreeing to proposed amendments to section four (4) and five (5) of article four (IV) of the constitution of the State of Indiana.

[S. 5. Joint Resolution Approved February 14, 1925.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana*, That the following proposed amendments to the constitution of the State of Indiana, which were agreed to by the seventy-third general assembly and referred to this general assembly, be agreed to by this, the seventy-fourth general assembly of the State of Indiana:

That section four (4) and five (5) of article four (IV) of the constitution of the State of Indiana be amended to read as follows: Sec. 4. The general assembly shall during the period between the general election in the year 1928 and the convening of the legislature in 1929, and every sixth year thereafter, cause to be ascertained the number of votes cast for all of the candidates for secretary of state in the different counties at the last preceding general election. Sec. 5. The number of senators and representatives shall, at the session next following each period when the number of votes cast for the office of secretary of state shall be ascertained, be fixed by law,

and apportioned among the several counties, according to the number of votes so cast for all¹⁶ the candidates for the office of secretary of state at such last preceding general election.¹⁷

664. JOINT RESOLUTION, February 14, 1925:
REGISTRATION OF VOTERS

On January 20, 1925 Senator William E. English (Rep.) introduced Senate Joint Resolution No. 6¹⁸ agreeing to the amendment to section 14 of Article II of the Constitution which was embodied in Senate Joint Resolution No. 6 of the General Assembly of 1923.¹⁹ This amendment was designed to authorize the General Assembly to classify counties, townships, cities, and towns for the purpose of securing the registration of voters. The amendment was read the first time on January 20 and was referred to the Committee on Constitutional Revision; on January 21 it was reported for passage and concurred in; on January 23 it was read the second time and ordered engrossed; on January 27 it was read the third time, passed by a vote of 39-0, and was referred to the House.

¹⁶ By comparing this resolution with Senate Joint Resolution No. 5 of the General Assembly of 1923, it will be observed that the word "of" occurs in the resolution of 1923 after the word "all." See Document No. 647. On September 10, 1926, in response to the inquiry of F. E. Schortemeier, secretary of state, as to whether, under the circumstances, the amendment could be submitted, and if so, what language controlled, Arthur L. Gilliom, attorney-general, submitted the following opinion on the importance of the omission in the resolution of 1925.

"It is obvious that the omission was a mere inadvertence and does not change the sense of the language used by the 73d assembly. There is no evidence that the 74th assembly intended to agree to the proposed amendment in a modified form. Under section 1, article 16 of the constitution, the 74th assembly was obliged to agree to the exact form of the amendment agreed to by the 73d assembly or else not agree to it at all. Chapter 222, Acts 1925, discloses an intention by the 74th assembly to agree to the amendment as proposed and agreed to by the preceding assembly. It sufficiently identified the amendment and expressly stated that it agrees to the amendments (including the 5th), 'which were agreed to by the 73d general assembly and referred to this general assembly.'

"Section 1 of article 16 of the constitution, as well as chapter 127, Acts 1925, contemplates that proposed amendments shall be printed on the ballots and voted on in the exact form in which they were proposed and agreed to by the first of the two sessions of the assembly and that when the second session has agreed to such an amendment, the agreement is on the exact form first proposed.

"The amendment in question, will therefore be taken in the form found in chapter 197, Acts 1923, so certified, placed on the ballot and voted on." *Opinions of the Attorney-General, Indiana . . . from January 1, 1925, to January 1, 1927*, pp. 173-74.

¹⁷ See Document No. 666, Amendment No. 2.

¹⁸ See Document No. 660.

¹⁹ See Document No. 648.

The resolution was received by the House on January 28, was read the first time and referred to the Committee on Judiciary A; on February 4 it was reported for passage and concurred in; on February 9 it was read the second time and ordered engrossed; on February 11 it was read the third time, passed by a vote of 75-2, and was returned to the Senate. The resolution was approved by the governor on February 14.

Laws of Indiana, 1925, p. 623:

CHAPTER 221.

A JOINT RESOLUTION agreeing to a proposed amendment to section fourteen (14) of article two (II) of the constitution of the State of Indiana.

[S. 6. Joint Resolution Approved February 14, 1925.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana*, That the following proposed amendment to the constitution of the State of Indiana, which was agreed to by the seventy-third general assembly and referred to this general assembly, be agreed to by this, the seventy-fourth general assembly of the State of Indiana:

That section fourteen (14) of article two (II) of the constitution of the State of Indiana be amended to read as follows: Section 14. All general elections shall be held on the first Tuesday after the first Monday in November; but township elections may be held at such time as may be provided by law: *Provided*, That the general assembly may provide by law for the election of all judges of courts of general or appellate jurisdiction, by an election to be held for such officers only, at which time no other officer shall be voted for; and may also provide for the registration of all persons entitled to vote. In providing for the registration of persons entitled to vote the general assembly shall have power to classify the several counties, townships, cities and towns of the state into classes, and to enact laws prescribing a uniform method of registration in any or all of such classes.²⁰

²⁰ See Document No. 666, Amendment No. 1.

665. LAW, March 12, 1925: SUBMISSION OF
CONSTITUTIONAL AMENDMENTS

On February 16, 1925 Senator William E. English (Rep.) introduced Senate Bill No. 310 providing for the submission to the voters of the constitutional amendments which had been proposed by the General Assembly of 1923 and agreed to by the General Assembly of 1925, at the general election in November, 1926. This bill was read the first time on February 16 and was referred to the Committee on Constitutional Revision; on February 17 it was reported for passage and concurred in; on February 20 it was read the second time and ordered engrossed; on February 24 it was read the third time, passed by a vote of 38-1, and was referred to the House.

The bill was received by the House on February 24, was read the first time and referred to the Committee on Judiciary A; on February 26 it was reported for passage and concurred in; on March 2 it was read the second time and ordered engrossed; on March 6 it was read the third time, passed by a vote of 93-0, and was returned to the Senate. The bill was approved by the governor on March 12.

Laws of Indiana, 1925, pp. 316-19:

CHAPTER 127.

AN ACT providing for the submission of certain proposed amendments to the constitution of the State of Indiana to the electors of the state for ratification or rejection at the general election to be held on the first Tuesday after the first Monday in November, 1926.

[S. 310. Approved March 12, 1925.]

SECTION 1. Be it enacted by the General Assembly of the State of Indiana, That each of the proposed amendments to the constitution of the State of Indiana which were proposed in the seventy-third session of the general assembly of 1923, and were agreed to by a majority of the members elected to each of the two houses of the seventy-third session of the general assembly and were referred to the general assembly elected at the general election of 1924, and were agreed to by a majority of the members elected to each of the two houses of the seventy-fourth session of the general assembly of 1925, are hereby submitted to the electors of this state for ratification

or rejection at the general election to be held on the first Tuesday after the first Monday in November, 1926.

SEC. 2. At the general election to be held on the first Tuesday after the first Monday in November, 1926, a vote shall be taken in the several voting precincts of this state on the question of the adoption or rejection of the proposed amendments which are by this act submitted to the electors of the state.

SEC. 3. The state board of election commissioners shall cause to be printed a sufficient number of ballots on white paper to be used at such election. On the face of such ballots shall be printed the respective proposed amendments, and the words "For the Amendment" and "Against the Amendment" opposite appropriate squares for marking the ballot. The square opposite the words "For the Amendment" shall contain the word "Yes" and the square opposite the words "Against the Amendment" shall contain the word "No." Each proposed amendment or part of a proposed amendment which is new matter shall be printed in italics or bold face type. The ballots shall be delivered to the respective clerks of the circuit courts at the same time and in the same manner that the other election supplies are delivered.

SEC. 4. Any voter who desires to vote for any of the proposed amendments shall make a cross (X) in the square opposite the words "For the Amendment;" and any voter who desires to vote against a proposed amendment shall make a cross in the square opposite the words "Against the Amendment." If a voter shall fail to indicate his choice as to one or more of the proposed amendments, his ballot shall be rejected only as to the proposed amendments for or against which he failed to indicate his choice, and shall be counted for or against such proposed amendments as to which his choice was properly indicated.

SEC. 5. The election board of each precinct shall count the votes cast for and against each proposed amendment separately, and also the whole number of electors who

voted at the election, and shall certify the same specifying separately the number of votes cast for and the number of votes cast against each proposed amendment, and the whole number of electors who voted at the election, to the clerk of the circuit court of the county at the same time that the other election returns are certified. The vote cast for and against each amendment and the total number of electors who voted at the election shall be canvassed and certified to the secretary of state in the same manner as other election returns.

SEC. 6. The secretary of state shall, as soon as possible after the election, determine the total vote cast in the state for and against each of the proposed amendments separately and also the total number of electors who voted at the election, and shall certify the same to the governor.

SEC. 7. Thereupon, the governor shall immediately issue and publish a proclamation, declaring therein the number of votes cast in the state for and against each of the proposed amendments separately, and also the whole number of electors who voted at the election.

SEC. 8. If it shall appear that the number of votes cast in the state for any one or more of the proposed amendments was greater than the number of votes cast against such amendment, and equal to or greater than a majority of all of the electors who voted at the election, then each such amendment shall be deemed and taken to have been ratified by the electors of the state, and become a part of the constitution of the state, and shall be so declared by the governor in his proclamation. But if it shall appear that any proposed amendment has received in its favor a number of votes less than a majority of all the electors who voted at the election, then each such amendment shall be deemed and taken to have been rejected by the electors of the state and shall be so declared by the governor in his proclamation.

SEC. 9. Except as herein otherwise provided, the election under this act shall be conducted in the same manner and subject to the same penalties as are prescribed in the

general election laws. Nothing in this act contained shall be so construed as to prevent the use of voting machines in any precinct if so desired.

666. BALLOT

The ballot used at the general election of November 2, 1926 set forth the number of the amendment, the general subject, the Article and section of the Constitution proposed to be amended, the text of the amendment, and squares containing the words "Yes" and "No" by marking which the voters could indicate their choice for or against the amendments. The amendatory matter was indicated by bold-faced type.

Official Sample Ballot:

OFFICIAL SAMPLE BALLOT
On Proposed Amendments to the
Constitution of the State of Indiana

Amendment No. 1
(Registration)

Proposed Amendment to Section 14 of Article 2.

Section 14. All general elections shall be held on the first Tuesday after the first Monday in November; but township elections may be held at such time as may be provided by law: Provided, That the general assembly may provide by law for the election of all judges of courts of general or appellate jurisdiction, by an election to be held for such officers only, at which time no other officer shall be voted for; and may also provide for the registration of all persons entitled to vote. **In providing for the registration of persons entitled to vote the general assembly shall have power to classify the several counties, townships, cities and towns of the state into classes, and to enact laws prescribing a uniform method of registration in any or all of such classes.**²¹

YES

FOR THE AMENDMENT

NO

AGAINST THE AMENDMENT

²¹ For proposal of this amendment in 1923 and readoption in 1925, see Documents Nos. 648 and 664. For vote on amendment, see Appendix III.

Amendment No. 2**(Apportionment)****Proposed Amendment to Sections 4 and 5 of Article 4.**

Section 4. The general assembly shall during the period between the general election in the year 1928 and the convening of the legislature in 1929, and every sixth year thereafter, cause to be ascertained the number of votes cast for all of the candidates for secretary of state in the different counties at the last preceding general election.

Section 5. The number of senators and representatives shall, at the session next following each period when the number of votes cast for the office of secretary of state shall be ascertained, be fixed by law, and apportioned among the several counties, according to the number of votes so cast for all of the candidates for the office of secretary of state at such last preceding general election.²²

YES

FOR THE AMENDMENT

NO

AGAINST THE AMENDMENT

Amendment No. 3**(Salaries, Terms—Increase)****Proposed Amendment to Section 2 of Article 15.**

Section 2. When the duration of any office is not provided for by this constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the general assembly shall not create any office, the tenure of which shall be longer than four (4) years, nor shall the term of office or salary of any officer fixed

²² For proposal of this amendment in 1923 and readoption in 1925, see Documents Nos. 647 and 663. For vote on amendment, see Appendix III.

by this constitution or by law be increased during the term for which such officer was elected or appointed.²³

YES

FOR THE AMENDMENT

NO

AGAINST THE AMENDMENT

Amendment No. 4

(Income Tax)

Proposed Amendment to Section 8 of Article 10.

Section 8. The general assembly may levy and collect a tax upon income, from whatever source derived, at such rates, in such manner, and with such exemptions as may be prescribed by law.²⁴

YES

FOR THE AMENDMENT

NO

AGAINST THE AMENDMENT

**667. GOVERNOR'S PROCLAMATION, December 21, 1926:
REJECTION OF CONSTITUTIONAL AMENDMENTS**

On December 21, 1920 Governor Ed Jackson issued his proclamation certifying the vote cast for and against each of the proposed constitutional amendments at the general election of November 2, 1926, and the total vote cast, and declaring that all of the amendments had been rejected.

Proclamation Book of Secretary of State, p. 509:
PROCLAMATION

WHEREAS, in pursuance to the provisions of Section 7 of "An Act providing for the submission of certain proposed amendments to the Constitution of the State of In-

²³ For proposal of this amendment in 1923 and readoption in 1925, see Documents Nos. 644 and 661. For vote on amendment, see Appendix III.

²⁴ For proposal of this amendment in 1923 and readoption in 1925, see Documents Nos. 646 and 662. For vote on amendment, see Appendix III.

diana to the electors of the State for ratification or rejection by the general election to be held on the first Tuesday after the first Monday in November, 1926", approved March 12, 1925; and

WHEREAS, it is this day certified by Frederick E. Schortemeier, Secretary of State of the State of Indiana, that the following is a true and correct statement of the total vote cast in the State of Indiana for and against the proposed amendments to the Constitution of the State of Indiana as cast at the general election on November 2nd, 1926, as shown by the certificates of the Clerks of the Circuit Courts of the several counties of the State of Indiana now on file in the office of the Secretary of State:

Amendment No 1

Votes cast for amendment.....	198,579
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Votes cast against amendment.....	184,684
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Amendment No. 2

Votes cast for amendment.....	183,828
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Votes cast against amendment.....	189,928
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Amendment No. 3

Votes cast for amendment.....	182,456
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Votes cast against amendment.....	177,748
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Amendment No. 4

Votes cast for amendment.....	239,734
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Votes cast against amendment.....	212,224
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and,

WHEREAS, it has also been made to appear to me from the Certificates of the Clerks of the Circuit Courts now on file in the office of the Secretary of State that the total number of electors who voted at the said election is 1,052,994;

NOW, THEREFORE, I, Ed Jackson, Governor of the State of Indiana, by virtue of the power and authority vested in me by the Constitution and laws of said State, do hereby make proclamation announcing that none of the said amendments having received a majority of the total votes cast have been duly ratified by the electors of the

State of Indiana, and that each of said amendments having received less than a majority of the total votes cast has been rejected by the electors of said State.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great
(SEAL) Seal of the State of Indiana, at the City of Indianapolis, this 21st day of December, A. D. 1926.

ED JACKSON
Governor of Indiana

By the Governor:
F. E. SCHORTEMEIER
Secretary of State.

THE SEVENTY-FIFTH GENERAL ASSEMBLY, 1927

The House of Representatives of the Seventy-fifth General Assembly which convened on January 6 and adjourned on March 7, 1927 consisted of 63 Republicans and 37 Democrats, and the Senate consisted of 35 Republicans and 15 Democrats. Ed Jackson (Rep.) was governor. The defeat of the constitutional amendments which had been submitted to the voters at the general election of 1926 afforded to the General Assembly of 1927 the opportunity of adopting amendments on any subject which might be deemed desirable. A bill was introduced providing for calling a constitutional convention, but it did not pass beyond second reading in the house in which it was introduced. Three constitutional amendments were proposed, two of which were adopted. One of the amendments adopted was the income-tax amendment which had been defeated at the general election of 1926.

668. JOINT RESOLUTION: JUDGES OF SUPREME COURT

On January 27, 1927 Senator Curtis Shake (Dem.) introduced Senate Joint Resolution No. 1 proposing an amendment to section 2 of Article VII of the Constitution. This amendment was designed to fix the membership of the Indiana Supreme Court at not less than nine nor more than fifteen and the terms at ten years, and to authorize the court to sit in divisions or *en banc*. The resolution was read the first time on January 27 and was referred to the Committee on Constitutional Revision; on February 4 it was reported for passage and concurred in; on February 9 it was read the second time and ordered engrossed; on February 17 it was read the third time, passed by a vote of 26-17, and was referred to the House. Of the 26 affirmative votes, 17 were cast by Republicans and 9 by Democrats; of the 17 negative votes, 12 were cast by Republicans and 5 by Democrats.

The resolution was received by the House on February 18; on February 23 it was read the first time and referred to the Committee on Criminal Code; on February 24 it was reported for passage and concurred in; on February 28 it was read the second time and ordered engrossed; on March 4 it was read the third time, and was defeated by a vote of 33-52.¹ Of the 33 affirmative votes, 26 were cast by Republicans and 7 by Democrats; of the 52 negative votes, 25 were cast by Republicans and 27 by Democrats.

¹ The vote is given in the *House Journal* as 33-53, but the names listed total 33-52.

Original Senate Joint Resolution No. 1:

A Joint Resolution to amend section 2 of Article VII of the Constitution of the State of Indiana concerning the number and term of office of Supreme Court Judges.

Section 1. Be it resolved by the General Assembly of the State of Indiana, That the following amendment to the Constitution of the State of Indiana is hereby proposed and agreed to by this the seventy-fifth General Assembly of the State of Indiana and is hereby referred to the General Assembly to be chosen at the next general election for reconsideration and agreement.

Sec. 2. That section 2 of Article VII of the Constitution of the State of Indiana be amended to read as follows: Sec. 2. The supreme court shall consist of not less than nine, nor more than fifteen judges, a majority of whom shall form a quorum. They shall hold their offices for a period of ten years, if they so long behave well. The supreme court may sit in divisions or in banc under such rules and regulations as the supreme court may provide.

669. JOINT RESOLUTION, March 5, 1927: INCOME TAX

On February 1, 1927 Senator Claude S. Steele (Rep.) introduced Senate Joint Resolution No. 2 proposing an amendment to Article X of the Constitution by adding thereto a new section to be numbered section 8. This amendment was designed to provide for the levy and collection of an income tax.² The resolution was read the first time on February 1 and was referred to the Committee on Constitutional Revision; on February 4 it was reported for passage and concurred in; on February 9 it was read the second time and ordered engrossed; on February 11 it was read the third time, passed by a vote of 37-6 and was referred to the House. Of the 37 affirmative votes, 24 were cast by Republicans and 13 by Democrats; of the 6 negative votes, 5 were cast by Republicans and 1 by a Democrat.

The resolution was received by the House on February 12; on February 14 it was read the first time and was referred to the

² This proposed amendment is identical with amendment No. 4 which was defeated at the election of November 2, 1926. See Document No. 666. See also Documents Nos. 646 and 662.

Committee on Judiciary A; on February 17 it was reported for passage and concurred in; on February 23 it was read the second time and ordered engrossed; on March 3 it was read the third time, passed by a vote of 51-35 and was returned to the Senate. Of the 51 affirmative votes, 30 were cast by Republicans and 21 by Democrats; of the 35 negative votes, 23 were cast by Republicans and 12 by Democrats. The resolution was approved by the governor on March 5.

Laws of Indiana, 1927, p. 758:

CHAPTER 267.

A JOINT RESOLUTION to amend article ten (10) of the constitution of the State of Indiana by adding thereto a new section to be numbered section eight (8), relating to taxes on income.

[S. 2. Joint Resolution. Approved March 5, 1927.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana*, That the following amendment is hereby proposed and agreed to by this, the seventy-fifth general assembly of the State of Indiana, and is referred to the next general assembly of the State of Indiana for reconsideration and agreement.

SEC. 2. That article ten of the constitution of the State of Indiana be amended by adding thereto a new section, to be designated and numbered as section 8, to read as follows: Sec. 8. The general assembly may levy and collect a tax upon income, from whatever source derived, at such rates, in such manner, and with such exemptions as may be prescribed by law.³

670. JOINT RESOLUTION, March 9, 1927:
QUALIFICATIONS FOR PRACTICE OF LAW

On February 9, 1927 Senator William F. Hodges (Rep.) introduced Senate Joint Resolution No. 3 proposing an amendment to the Constitution by striking out all of section 21 of Article VII, concerning the qualifications necessary to practice law. The resolution was read the first time on February 9 and was referred to the Committee on Constitutional Revision; on February 11 it was reported for passage and concurred in; on February 17 it

³ In the General Assembly of 1929 this amendment was incorporated in Senate Joint Resolution No. 4. See Document No. 675.

was read the second time and ordered engrossed; on February 18 it was read the third time, passed by a vote of 41-0, and was referred to the House.

The resolution was read the first time in the House on February 25 and was referred to the Committee on Judiciary B; on March 1 it was reported for passage and concurred in; on March 3 it was read the second time and ordered engrossed; on March 4 it was read the third time, passed by a vote of 69-4, and was returned to the Senate. The resolution was approved by the governor on March 9.

Laws of Indiana, 1927, p. 759:

CHAPTER 268.

A JOINT RESOLUTION to amend the constitution of the State of Indiana by striking out section 21 of article VII, concerning the qualifications of persons to practice law.

[S. 3. Joint Resolution. Approved March 9, 1927.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana*, That the following amendment to the constitution of the State of Indiana is hereby proposed and agreed to by this, the seventy-fifth general assembly of the State of Indiana, and is referred to the next general assembly of the state for reconsideration and agreement.

SEC. 2. That the constitution of the State of Indiana be amended by striking out all of section 21 of article VII.⁴

671. BILL: CONSTITUTIONAL CONVENTION

On February 1, 1927 Senator John S. Alldredge (Rep.) introduced Senate Bill No. 160 providing that a vote be taken on the question of calling a constitutional convention at the general election of November, 1928. The bill was read the first time on February 1 and was referred to the Committee on Constitutional Revision; on February 7 it was reported for passage and concurred in; on February 9 it was read the second time and ordered engrossed; no further action was taken on the bill.

⁴ See Document No. 638 and Amendment No. 8 there proposed. This amendment was defeated in the election of 1921. In the General Assembly of 1929 this amendment was incorporated in Senate Joint Resolution No. 3. See Document No. 674.

Original Senate Bill No. 160:

A BILL FOR AN ACT to provide for taking the sense of the qualified electors of the State of Indiana on a call for a constitutional convention, providing how such election shall be conducted and also providing that in the event a majority of such electors who vote on the question vote in favor of calling a constitutional convention, that such a convention be held in the city of Indianapolis on the first Monday in May, 1929, providing for the time, manner, apportionment, number and election of delegates to such convention and the powers and duties of such convention and other matters incident thereto.

Section 1. Be it enacted by the general assembly of the State of Indiana, That it shall be the duty of the inspectors of elections in the several townships and voting precincts within each county in this state at the regular election to be held in November, 1928, to open a poll in which shall be entered all the votes given for or against the calling of a convention to alter, revise or amend the constitution of the State of Indiana, or to formulate a new constitution if deemed advisable.

Sec. 2. Every qualified voter in the State of Indiana may, at said election, vote for or against the calling of a convention for the purpose mentioned in the first section of this act.

Sec. 3. The county board of election commissioners shall furnish to each inspector of such election the same number of ballots to be used by the voters in determining whether such convention shall be called, as is furnished of county ballots. Said ballots shall be in the following form, to-wit:

Are you in favor of a constitutional convention in the year 1929.

☐ Yes.

☐ No.

Such ballot shall be printed on plain white paper four inches square. The expense of printing said ballots and

furnishing the ballots, boxes and supplies hereinafter mentioned shall be paid by the respective boards of commissioners of the several counties of the state as other expenses of elections are paid. Each voter shall indicate his desire as to the calling of such convention by marking said ballot in the manner following, viz: If such voter is in favor of calling a constitutional convention he shall make a mark thus "X" in the square in front of the word "Yes", if he is opposed he shall make a mark thus "X" in the square in front of the word "No". Such ballots after being marked by the voter shall be deposited in a separate box to be provided for the purpose. Whenever an elector offers to vote at such election one of said ballots shall be handed such voter by the judge of election.

Sec. 4. At the close of the polls it is hereby made the duty of the several boards of election to canvass on the county tally sheet the ballots cast upon said question, and the number of votes given for or against the calling such convention, and such vote shall be canvassed by the county board of canvassers the same as the votes for candidates are canvassed by such board, certified to the clerks of the circuit court respectively, upon certificates to be furnished such inspectors and board of canvassers, with the other election supplies.

Sec. 5. It shall be the duty of the clerks of the circuit courts throughout the state to certify and make return of all votes given for or against the calling of such convention, and also all the votes that were given at such election, to the secretary of state in the same way and manner that votes for governor are required by law to be certified, and such clerks shall be subject to like penalties for a neglect of duty. It shall be the duty of the secretary of state to lay before the next general assembly all the returns received by him pursuant to the provisions of this act, and also to certify the total vote at said election and the vote for and against said question to the governor.

Sec. 6. In the notice of said general election to be held in November, 1928, shall be included a notice to the electors that the polls will be open for the purpose specified in this act.

Sec. 7. If a majority of the electors voting upon this proposition at such election shall be in favor of calling a constitutional convention, then a constitutional convention shall be held in the State of Indiana under the provisions of this act, and if such proposition shall so carry, it shall be the duty of the governor to issue his proclamation that said proposition has carried.

Sec. 8. If said question shall carry, then and in that event a special election shall be held by the qualified voters of the State of Indiana on the first Tuesday after the first Monday in March, 1929, at which shall be elected delegates who shall constitute a convention for the purpose of making such amendments, alterations, and changes in, the present constitution of the State of Indiana, or the making of an entirely new constitution for the State of Indiana, as such convention may deem proper, and which new constitution or amendments to the present constitution shall be submitted to the vote of the people of the State of Indiana to be by them ratified or rejected.

Sec. 9. The convention shall consist of a number of delegates equal to the whole number of the members composing the house of representatives of this state, and shall be apportioned in the same manner that members of the general assembly are apportioned at the time of such election; they shall be chosen in the same method and by the same electors as choose the general assembly, and all persons entitled to vote for delegates shall be eligible to be elected to a seat in the convention.

Sec. 10. That said election shall, in all respects, be conducted, held, canvassed and certified in manner and form as now prescribed by law for the election of members of the general assembly, and all laws regulating elections and prescribing penalties for the violation

thereof, so far as the same are applicable, shall be in force in said election of delegates the same as are provided by law in the case of election of members of the general assembly.

Sec. 11. In case of a contest or dispute in the election of delegates to said convention, the contesting candidate or other person contesting said election shall pursue the same course and be governed by the same rules and regulations as are now provided by law in case of contested or disputed election of senators or representatives of the general assembly of this state.

Sec. 12. No political party shall be permitted to nominate candidates for delegates to such convention. All nominations for delegates to such convention shall be by petition and any voter shall be permitted to become a candidate as such delegate by filing a petition to that effect, signed by one hundred voters of the district in which he proposes to be a candidate. In all other respects such petition shall be governed by the provisions of the general election governing petitions for nomination of candidates to the general assembly. All candidates for delegates to said convention from the same district shall be printed in the same column and in alphabetical order according to the surnames of the candidates.

Sec. 13. Delegates, who shall be elected as aforesaid, shall assemble in convention at the capitol in the City of Indianapolis on the first Monday in May, 1929, at 12 o'clock noon and organize by electing a president and all other necessary officers. It shall be the duty of the secretary of state to attend the convention on the convening thereof; to call over the lists of districts and counties; receive the credentials of delegates, and, generally to perform the duties of the organization that are usually discharged by the officer whose duty it is by law to attend to the organization of the house of representatives of this state at the commencement of its session; and should the secretary of state fail to attend in person or by

deputy at said hour on said day, then it shall be the duty of the auditor of state to attend for such purpose. The custodian of the state house shall properly prepare the hall of the house of representatives for the use of said convention.

Sec. 14. Delegates, before entering upon the discharge of their duties, shall each be duly sworn or affirmed to support the constitution of the United States, the constitution of the State of Indiana, and honestly and faithfully perform the duties of said office; such oath or affirmation may be administered to them by any judge of the supreme or appellate court.

Sec. 15. Members of said convention shall enjoy the same privileges and immunities in going to, attending upon, and returning from said convention that the members elected to and attending on the general assembly are now entitled by law. Said convention shall be the judge of the election and qualification of its members; it shall possess the same power to adopt rules, expel a member for disorderly conduct, and punish contempt, that are now exercised by the house of representatives of the general assembly in similar cases. A majority of the members shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and take measures to compel the attendance of absent members.

The members and officers of said convention shall be entitled to the use of the state library in the same manner and upon the same conditions that members of the general assembly are allowed the use thereof.

Sec. 16. In the case of a death or resignation of any member of the convention, the governor of this state shall issue an order for a special election to be held to fill such vacancy in the same manner as now prescribed by law for supplying vacancies in the general assembly of the state. The members of the convention shall receive the same mileage while attending upon the sitting of said convention as members of the general assembly are

allowed by law and they shall receive a per diem of ten dollars per day, and all the officers, employes and attendants shall be paid the same compensation as like officers, employes and attendants of the general assembly of this state are paid for similar services; all of which expenses, together with such other expenses as may be incurred by said convention, shall be certified by the president of the convention, and shall be paid by the treasurer of state out of any fund not otherwise appropriated, on the warrant of the auditor of state. Said convention shall not remain in session longer than one hundred and eighty days, Sundays excepted.

Sec. 17. The secretary of state and all other state officers shall furnish said convention with all such papers, statements, statistical information, copies of records or public documents in their possession as the convention may order or require; and it shall be the duty of the proper officer or officers to furnish the members of said convention with all stationery as is usually furnished the general assembly while in session, which shall be paid for on the certificate of the president, in like manner as provided in the preceding section.

Sec. 18. The enrolled copy of the constitution or amendments adopted by said convention, and the proceedings of said convention, shall be deposited by the president and secretary thereof in the office of the secretary of state, who shall file the same, and cause said constitution to be entered of record in his office; and said convention may submit one or more amendments or one or more sections of the proposed constitution, as distinct propositions, to be voted upon by the people separately or together, as to the convention seems expedient. Said convention shall have power to fix and prescribe the time, form and manner of submitting any amendments or new constitution to the electors of the state for their adoption or rejection and for such purpose said convention is given power and authority to call a special election of the electors.

Sec. 19. It shall be the duty of the secretary of state, so soon as such enrolled proposed constitution or amendments are recorded in his office, to deliver to the governor of the state, a certified copy thereof, who shall, on the meeting of the general assembly of this state at its next session, following such convention, lay the same before them; and it shall be the duty of said general assembly if such constitutional convention has failed to submit its work to the people for adoption or rejection, to pass all laws necessary and proper for submitting the same to the qualified voters for their approval or rejection; and also for organizing the government under the amended constitution, in case it shall be adopted and ratified by a majority of the voters voting thereon, at the election to be held for that purpose. It shall be the duty of the secretary of state to immediately cause ten thousand copies of this act to be printed and distributed to the clerks of the circuit courts of the State of Indiana in proportion to the population of the several counties; said clerks shall cause the auditor of the county to deliver one or more of said copies to each inspector of elections in said county, and the clerks shall certify to the sheriff that the delegates are to be elected and the sheriff shall give notice of said election in the same manner as now provided by law as to the election of members of the general assembly of this state.

Sec. 20. All ballots and blank forms for the holding of such election and all other forms and blanks that will be necessary to carry out the provisions of this act shall be prepared and furnished in the same way that like forms, blanks, etc., are prepared and furnished for elections and for the use of the general assembly, by the proper officers, and shall be paid for in the same manner. All election officers shall receive the same compensation as now provided by law for similar services rendered at general elections.

672. SOCIALIST STATE PLATFORM, May 26, 1928

The Socialist Party was the only one of the political parties which adopted a resolution in 1928 relative to changes in the state Constitution.

State Platform of the Socialist Party of Indiana, 1928:

To call a convention to adopt a State constitution in keeping with the spirit of the times, so as to:

(1) Safeguard the right of free speech, press and assembly.

(2) Prevent the usurpation of power by the courts, especially to prevent the granting of injunctions without a jury trial in labor disputes.

(3) Establish the initiative, referendum and recall.

(4) Provide for the election of legislators by proportional representation, so that the various parties may share in the government according to the vote they poll; our ultimate aim being to obtain occupational instead of geographical representation.

(5) Grant self government to municipalities over their own affairs.

(6) Repeal the so-called anti-sedition law and other repressive measures.

THE SEVENTY-SIXTH GENERAL ASSEMBLY, 1929

The House of Representatives of the Seventy-sixth General Assembly which convened on January 10 and adjourned on March 11, 1929, consisted of 80 Republicans and 20 Democrats, and the Senate consisted of 38 Republicans and 12 Democrats. Harry G. Leslie (Rep.) succeeded Ed Jackson (Rep.) as governor on January 14, 1929. There were two constitutional amendments pending which had been adopted by the General Assembly of 1927 and referred to the General Assembly of 1929. Both were readopted. In addition, a vote on the question of calling a constitutional convention was authorized to be taken at the November election of 1930.

673. LEGISLATIVE ACTION, January 15-24, 1929: PENDING AMENDMENTS

On January 15, 1929 the president of the Senate submitted to the Senate a communication from the secretary of state transmitting certified copies of the two amendments which had been adopted by the General Assembly of 1927 and submitted to the General Assembly of 1929 for reconsideration. These amendments were embodied in Senate Joint Resolutions Nos. 2 and 3 of the General Assembly of 1927. Upon the submission of these two resolutions to the Senate, and without embodying them in resolutions of the General Assembly of 1929, they were referred to the Committee on Constitutional Revision; on January 18 they were reported for passage and concurred in; on January 22 they were read the second time and ordered engrossed; on January 24 the two resolutions were withdrawn.

Senate Journal, Seventy-sixth Session, 1929, p. 33:

A Joint Resolution to amend article ten (10) of the Constitution of the State of Indiana by adding thereto a new section to be numbered section eight (8), relating to taxes on income.¹

Senate Journal, Seventy-sixth Session, 1929, p. 34:

A Joint Resolution to amend the Constitution of the State of Indiana by striking out section 21 of Article VII concerning the qualifications of persons to practice law.²

¹ See Document No. 669 for complete text of the resolution.

² See Document No. 670 for complete text of the resolution.

674. JOINT RESOLUTION, March 11, 1929:

QUALIFICATIONS FOR PRACTICE OF LAW

On January 24, 1929 Senator Denver C. Harlan (Rep.) introduced Senate Joint Resolution No. 3 proposing an amendment to the Constitution by striking out all of section 21 of Article VII, concerning the qualifications for the practice of law. This was the amendment embodied in Senate Joint Resolution No. 3 of the General Assembly of 1927.³ The resolution was read the first time on January 24 and was referred to the Committee on Constitutional Revision; on January 25 it was reported for passage and concurred in; on January 29 it was read the second time and ordered engrossed; on February 18 it was read the third time, passed by a vote of 41-0, and was referred to the House.

The resolution was received by the House on February 18; on February 19 it was read the first time and was referred to the Committee on Judiciary A; on February 28 it was reported for passage and concurred in; on March 2 it was read the second time and ordered engrossed; on March 11 it was read the third time, passed by a vote of 83-0, and was returned to the Senate. The resolution was approved by the Governor on March 11.

Laws of Indiana, 1929, p. 824:

CHAPTER 235.

A JOINT RESOLUTION agreeing to a proposed amendment to the constitution of the State of Indiana by striking out section 21 of article VII, concerning the qualifications of persons to practice law.

[S. 3. Joint Resolution. Approved March 11, 1929.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana, That the following proposed amendment to the constitution of the State of Indiana which was agreed to by the seventy-fifth general assembly, and referred to this general assembly, be agreed to by this, the seventy-sixth general assembly of the State of Indiana:*

SEC. 2. That the constitution of the State of Indiana be amended by striking out all of section 21 of article VII.

³ See Document No. 670.

675. JOINT RESOLUTION, March 6, 1929: INCOME TAX

On January 24, 1929 Senator Perry Johnson (Rep.) introduced Senate Joint Resolution No. 4 proposing an amendment to Article X of the Constitution by adding thereto a new section to be numbered section 8. This amendment was designed to provide for the levy and collection of an income tax, and was the amendment embodied in Senate Joint Resolution No. 2 of the General Assembly of 1927.⁴ The resolution was read the first time on January 24 and was referred to the Committee on Constitutional Revision; on February 1 it was reported for passage and concurred in; on February 5 it was read the second time and ordered engrossed; on February 13 it was read the third time, passed by a vote of 34-4 and was referred to the House.

The resolution was received by the House on February 14, was read the first time and referred to the Committee on Judiciary B; on February 23 it was reported for passage and concurred in; on February 28 it was read the second time and ordered engrossed; on March 4 it was read the third time, passed by a vote of 64-23, and was returned to the Senate. Of the 64 affirmative votes, 55 were cast by Republicans and 9 by Democrats; of the 23 negative votes, 17 were cast by Republicans and 6 by Democrats. The resolution was approved by the governor on March 6.

Laws of Indiana, 1929, p. 821:

CHAPTER 232.

A JOINT RESOLUTION agreeing to a proposed amendment to article ten of the constitution of the State of Indiana by adding thereto a new section to be numbered eight, relating to taxes on income.

[S. 4. Joint Resolution. Approved March 6, 1929.]

SECTION 1. *Be it resolved by the general assembly of the State of Indiana, That the following proposed amendment to the constitution of the State of Indiana, which was agreed to by the seventy-fifth general assembly and referred to this general assembly, be agreed to by this, the seventy-sixth general assembly of the State of Indiana:*

SEC. 2. That article ten of the constitution of the State of Indiana be amended by adding thereto a new section to be designated and numbered as section eight to read as

⁴ See Document No. 669.

follows: Section 8. The general assembly may levy and collect a tax upon income, from whatever source derived, at such rates, in such manner, and with such exemptions as may be prescribed by law.

676. BILL: SUBMISSION OF CONSTITUTIONAL AMENDMENTS

On February 15, 1929 Senator Ralph Adams (Rep.) introduced Senate Bill No. 259 providing for the submission to a vote of the electors of the two constitutional amendments which had been proposed by the General Assembly of 1927⁵ and re-adopted by the General Assembly of 1929.⁶ The vote was to be taken at the primary election in May, 1930. The bill was read the first time on February 15 and was referred to the Committee on Elections; on February 21 it was reported for passage and concurred in; on February 26 it was read the second time and ordered engrossed; on March 4 it was read the third time, passed by a vote of 28-12, and was referred to the House. Of the 28 affirmative votes, 23 were cast by Republicans and 5 by Democrats; of the 12 negative votes, 8 were cast by Republicans and 4 by Democrats.

The bill was read the first time in the House on March 5 and was referred to the Committee on Elections; on March 6 it was reported for passage and concurred in; on March 8 it was read the second time and ordered engrossed; later the same day the vote by which the bill had passed to engrossment was reconsidered, an amendment was offered and rejected and the bill was again ordered to engrossment; on March 11 the bill was read the third time, passed by a vote of 73-7,⁷ and was returned to the Senate. The record shows that this bill passed both houses without amendment; that only one amendment was offered in either house; and that the amendment so offered was defeated. However, when the bill was enrolled, the defeated amendment was enrolled in the bill and as the title and the body of the bill did not correspond, it was refused by the governor on the advice of the attorney-general. The opinion submitted to the governor by Attorney-General James M. Ogden on March 14, 1929 is as follows:

"I hand you herewith Senate Enrolled Act No. 259 which is an act providing for the submission to the electors of certain proposed constitutional amendments.

"The title is as follows:

⁵ See Documents Nos. 669 and 670.

⁶ See Documents Nos. 674 and 675.

⁷ The vote is given in the *House Journal* as 74-7, but the names listed total 73-7.

“‘An act providing for the submission of certain proposed constitutional amendments to the electors of the state for ratification or rejection at the *primary election to be held on the first Tuesday after the 1st Monday in May, 1930*, and prescribing the duties of election officers in connection therewith.’ (Our underscoring)

“The act provides for such submission not at the primary but at the general election on the first Tuesday after the first Monday in November, 1930.

“In my opinion this act is unconstitutional because the subject expressed in the title is not the subject embraced in the act. Burns’ Ann. Ind. Stats. 1926, Sec. 122.”

The text of the bill given below is the text of the bill as it actually passed. The footnotes indicate the changes proposed by the defeated House amendment which were incorporated by mistake in the enrolled bill.

Engrossed Senate Bill No. 259:

A Bill for an Act providing for the submission of certain proposed constitutional amendments to the electors of the state for ratification or rejection at the primary election to be held on the first Tuesday after the first Monday in May, 1930, and prescribing the duties of election officers in connection therewith.

Section 1. Be it enacted by the General Assembly of the State of Indiana, That each and all of the proposed amendments to the constitution of the State of Indiana, which were submitted to the general assembly of said state at its regular session in 1927 and agreed to by a majority of the members elected to each of the two houses of said general assembly, and which were thereafter referred to the general assembly chosen at the next general election and agreed to by a majority of all the members elected to each house of such general assembly at its regular session in 1929, be submitted to the electors of the State of Indiana for their ratification or rejection at the primary⁸ election to be held on the first Tuesday after the first Monday in May,⁹ 1930.

⁸ The word “primary” was stricken out and the word “general” inserted in lieu thereof.

⁹ The word “May” was stricken out and the word “November” inserted in lieu thereof.

Sec. 2. The amendments to be submitted to the electors shall be certified by the secretary of state to the state board of election commissioners. The state board of election commissioners shall cause to be printed a sufficient number of ballots on white paper to be used at such election. On the face of such ballots shall be printed the respective proposed amendments so agreed to by a majority of the members in each house of the general assembly of 1927 and 1929 and the words "For the amendment" and "Against the amendment" opposite appropriate squares for marking the ballot. The square opposite the words "For the amendment" shall contain the word "Yes" and the square opposite the words "Against the amendment" shall contain the word "No."

Sec. 3. The board and officers for such election shall be the board and officers of the primary¹⁰ election, and, in addition to its duties as the primary¹¹ election board, as prescribed by law, the primary¹² election board shall perform all of the duties as the election board under the provisions of this act. The members of the primary¹³ election boards shall perform the duties required by this act without additional compensation.

Sec. 4. The qualification of voters at such election shall be the same as for general elections. Any voter desiring to vote for a given proposed amendment shall make a cross in the square opposite the words "For the amendment" and any voter desiring to vote against a proposed amendment shall make a cross in the square opposite the words "Against the amendment." If a voter shall fail to indicate his choice as to some of the proposed amendments his ballot shall be rejected only as to the proposed amendments for or against which he failed to indicate his choice and shall be counted as to those in relation to which his choice was properly indicated. Every elector who is entitled by virtue of his

¹⁰ The word "primary" was stricken out and the word "general" was inserted in lieu thereof.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*

party allegiance¹⁴ to vote at such primary¹⁵ shall be given a ballot containing the proposed constitutional amendments at the time when he is given the party¹⁶ ballot,¹⁷ or, if he does not desire to participate in such primary he may obtain and vote a ballot containing such proposed constitutional amendments. Every elector who is not entitled by virtue of his party allegiance to vote at such primary may call for, obtain and vote a ballot containing such proposed constitutional amendments.¹⁸

Sec. 5. In so far as applicable and not inconsistent with the provisions of this act or with the primary¹⁹ election law, the laws of this state governing general elections shall be observed and followed by the different boards and officers in providing for said election, in conducting it and in making the returns and canvass of votes including all penal laws for fraudulent voting or other illegal acts. The hours of the voting shall be the same as the primary²⁰ election.

Sec. 6. The board of election of each precinct shall count the votes for and against each proposed amendment separately, and also the whole number of electors who voted at the election, and certify all said numbers, specifying separately the number of votes cast for each proposed amendment and the number cast against each, and the whole number of electors who voted at the election, over their signatures or the signatures of a majority of them to the clerk of the circuit court of their county at the same time that the primary election returns are made. The clerk of each county shall ascertain from

¹⁴ The words "by virtue of his party allegiance" were stricken out.

¹⁵ The word "primary" was stricken out and the word "election" inserted in lieu thereof.

¹⁶ The word "party" was stricken out and the word "regular" inserted in lieu thereof.

¹⁷ The comma after the word "ballot" was stricken out and a period inserted in lieu thereof.

¹⁸ The entire portion of this section beginning with the words "or, if he does not desire" and ending with the words "constitutional amendments" at the end of the section was stricken out.

¹⁹ The word "primary" was stricken out and the word "general" inserted in lieu thereof.

²⁰ *Ibid.*

such certificates the total vote in said county for and against each proposed amendment separately, and also the whole number of electors who voted at the election, and certify the same to the secretary of state, at the same time that the other primary²¹ election returns are made to the secretary of state. The secretary of state shall, as soon as possible after the election, determine from said certificates of the clerks of the circuit courts of the several counties, the total vote cast in the state for and against each proposed amendment separately and also the total number of electors who voted at the election, and certify the same to the governor; and the governor shall immediately issue and publish a proclamation, declaring therein the number of votes cast in the state, for and against each proposed amendment separately, and also the whole number of electors who voted at the election. And if it shall appear that the number of votes cast in the state for any one or more of said proposed amendments was greater than the number of votes cast against the same amendment, and equal to a majority of all the electors who voted at the election, then each such amendment shall be deemed and taken to have been ratified by the electors of the state, and become part of the constitution, and shall be so declared by the governor in said proclamation. But if it shall appear that any proposed amendment has received in its favor a number of votes less than a majority of all the electors who voted at the election, then each such amendment shall be deemed and taken to have been rejected by the electors of the state and shall be so declared by the governor in said proclamation. For the purpose of the ratification or rejection of said proposed amendments, and each of them, the number of electors who shall vote at the election herein provided for, shall be conclusively taken and deemed to be the whole number of electors in the state. The certificate of the secretary of state herein provided for, and the proclamation of the governor based thereon, shall be final

²¹ The word "primary" was stricken out.

and conclusive evidence of the number of votes cast for and against each amendment, and of the whole number of electors who voted at the election, and of the ratification or rejection of each proposed amendment, as the case may be.

Sec. 7. It shall be the duty of every officer charged with any service under this act to perform the same with the utmost promptness and fidelity, but the failure of any such officer or officers to perform any such duty in the time or manner herein directed, or the failure of the electors in any precinct or county to hold an election as herein provided, shall not in any manner affect the validity of such election.

677. JOINT RESOLUTION: REGISTRATION OF VOTERS

On January 28, 1929 Benjamin F. Zieg (Rep.) introduced House Joint Resolution No. 2 proposing an amendment to Article II of the Constitution by adding thereto a new section to be numbered section 15. This amendment was designed to authorize the General Assembly to require voters to register in counties having a population of more than 100,000 and in cities having a population of more than 15,000. This resolution was read the first time on January 28 and was referred to the Committee on Judiciary A. As there were two constitutional amendments pending which had not yet been disposed of, the introduction of an additional amendment was illegal, and no action was taken on the resolution.

Original House Joint Resolution No. 2:

A Joint Resolution to amend article two (2) of the constitution of the State of Indiana by adding thereto a new section to be numbered section fifteen, (15), relating to registration of voters.

Sec. 1. Be it resolved by the General Assembly of the State of Indiana, that the following amendment is hereby proposed and agreed to by this, the 76th. general assembly of the State of Indiana, and is referred to the next general assembly of the State of Indiana for reconsideration and agreement.

Sec. 2. That article two (2) of the constitution of the State of Indiana be amended by adding thereto a new

section to be designated and numbered as section fifteen (15), to read as follows; Section 15. The general assembly may provide by law for the registration of voters in counties having a population of more than one hundred thousand, (100,000) and in cities having a population of more than fifteen thousand (15,000) but not otherwise. Any general assembly held after the adoption of this section, may pass laws necessary to enforce this provision and for such purpose may classify or reclassify such counties and cities according to population, but such laws shall be uniform as to each class.

678. LAW, March 14, 1929: CONSTITUTIONAL CONVENTION

On January 22, 1929 Senator John S. Alldredge (Rep.) introduced Senate Bill No. 39 providing that the question of calling a constitutional convention be submitted to the voters at the general election of 1930. The bill was read the first time on January 22 and was referred to the Committee on Constitutional Revision. On March 2 the committee brought out a divided report. The majority report, signed by four members of the committee, recommended that the bill be indefinitely postponed; the minority report, signed by three members, made no recommendation. The question being on the substitution of the minority for the majority report, the vote was 22 in favor of the minority report and 19 opposed. Hence the minority report was adopted. Of the 22 affirmative votes, 18 were cast by Republicans and 4 by Democrats; of the 19 negative votes, 12 were cast by Republicans and 7 by Democrats. On March 7 the bill was read the second time, amended, and, after an unsuccessful attempt to indefinitely postpone it, was ordered engrossed; on March 8 it was read the third time, passed by a vote of 37-4 and was referred to the House.

The bill was received by the House on March 9, was read the first time, and the constitutional rule requiring bills to be read on three several days was suspended. At this juncture the bill was made a special order for a later hour of the same day, and was at that time made a special order for March 11. On March 11 the bill was considered as a special order of business, amended, placed upon its passage, and failed to pass for want of a constitutional majority, the vote being 46-41. Of the 46 affirmative votes, 37 were cast by Republicans and 9 by Democrats; of the 41 negative votes, 35 were cast by Republicans and 6 by Demo-

crats. Later the same day the bill was placed upon its passage a second time, passed by a vote of 62-25, and was returned to the Senate. Of the 62 affirmative votes, 52 were cast by Republicans and 10 by Democrats; of the 25 negative votes, 19 were cast by Republicans and 6 by Democrats. The House amendments were concurred in by the Senate on March 11 and the bill was approved by the governor on March 14.

Laws of Indiana, 1929, pp. 621-28:

CHAPTER 191.

AN ACT to provide for taking the sense of the qualified electors of the State of Indiana on a call for a constitutional convention, providing how such election shall be conducted and also providing that in the event a majority of such electors who vote on the question vote in favor of calling a constitutional convention, that such a convention be convened in the city of Indianapolis on the first Monday in October, 1931, providing for the time, manner, apportionment, number and election of delegates to such convention and the powers and duties of such convention and other matters incident thereto.

[S. 39. Approved March 14, 1929.]

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That it shall be the duty of the inspectors of elections in the several²² voting precincts within each county in this state at the regular election to be held in November, 1930, to open a poll in which shall be entered all the votes given for or against the calling of a convention to²³ formulate a new constitution of the State of Indiana.

SEC. 2. Every qualified voter in the State of Indiana may, at said election, vote for or against the calling of a convention for the purpose mentioned in the first section of this act.

SEC. 3. The county board of election commissioners shall furnish to each inspector of such election the same number of ballots to be used by the voters in determin-

²² The words "townships and" which occurred after the word "several" were stricken out by the House amendment.

²³ After the word "to" the bill originally read: "alter, revise or amend the constitution of the State of Indiana, or to formulate a new constitution if deemed advisable." This language was stricken out and the language of the act inserted by the House amendment.

ing whether such convention shall be called, as is furnished of county ballots. Said ballots shall be in the following form, to wit:

Are you in favor of convening²⁴ a constitutional convention in the year 1931?

Yes

No

Such ballot shall be printed on plain white paper four inches square. The expense of printing said ballots and furnishing the ballots, boxes and supplies hereinafter mentioned shall be paid by the respective boards of commissioners of the several counties of the state as other expenses of elections are paid. Each voter shall indicate his desire as to the calling of such convention by marking said ballot in the manner following, viz.: If such voter is in favor of calling a constitutional convention he shall make a mark thus "X" in the square in front of the word "Yes", if he is opposed he shall make a mark thus "X" in the square in front of the word "No". Such ballots after being marked by the voter shall be deposited in a separate box to be provided for the purpose. Whenever an elector offers to vote at such election one of said ballots shall be handed such voter by the judge of election.

SEC. 4. At the close of the polls it is hereby made the duty of the several boards of election to canvass on the county tally sheet the ballots cast upon said question, and the number of votes given for or against the calling of such convention, and such vote shall be canvassed by the county board of canvassers the same as the votes for candidates are canvassed by such board, certified to the clerks of the circuit court respectively, upon certificates to be furnished such inspectors and board of canvassers, with the other election supplies.

SEC. 5. It shall be the duty of the clerks of the circuit courts throughout the state to certify and make return

²⁴ The word "convening" was inserted by the House amendment.

of all votes given for or against the calling of such convention, and also all the votes that were given at such election, to the secretary of state in the same way and manner that votes for governor are required by law to be certified, and such clerks shall be subject to like penalties for a neglect of duty. It shall be the duty of the secretary of state to lay before the next general assembly all the returns received by him pursuant to the provisions of this act, and also to certify the total vote at said election and the vote for and against said question to the governor.

SEC. 6. In the notice of said general election to be held in November, 1930, shall be included a notice to the electors that the polls will be open for the purpose specified in this act.

SEC. 7. If a majority of the electors voting upon this proposition at such election shall be in favor of calling a constitutional convention, then a constitutional convention shall be held in the State of Indiana under the provisions of this act, and if such proposition shall so carry, it shall be the duty of the governor to issue his proclamation that said proposition has carried.

SEC. 8. If said question shall carry, then and in that event a special election shall be held by the qualified voters of the State of Indiana on the first Tuesday after the first Monday in May,²⁵ 1931, at which shall be elected delegates who shall constitute a convention for the purpose of²⁶ formulating a new constitution for the State of Indiana, which constitution shall be submitted to the vote of the people of the State of Indiana to be by them ratified or rejected.

²⁵ The House amendment struck out the word "March" and inserted the word "May."

²⁶ Section 8, after the word "of" originally read as follows: "making such amendments, alterations, and changes in, the present constitution of the State of Indiana, or the making of an entirely new constitution for the State of Indiana, as such convention may deem proper, and which new constitution or amendments to the present constitution shall be submitted to the vote of the people of the State of Indiana to be by them ratified or rejected." The language of the act was inserted by the House amendment.

SEC. 9. The convention shall consist of one hundred delegates, to be apportioned in the same manner that members of the general assembly are apportioned at the time of such election; all of whom shall be chosen by the same method and by the same electors as choose the general assembly, and all persons entitled to vote for delegates shall be eligible to be elected to a seat in the convention.²⁷

SEC. 10. That said election shall, in all respects, be conducted, held, canvassed and certified in manner and form as now prescribed by law for the election of members of the general assembly, and all laws regulating elections and prescribing penalties for the violation thereof, so far as the same are applicable, shall be in force in said election of delegates the same as are provided by law in the case of election of members of the general assembly.

SEC. 11. In case of a contest or dispute in the election of delegates to said convention, the contesting candidate or other person contesting said election shall pursue the same course and be governed by the same rules and regulations as are now provided by law in case of contested or disputed election of senators or representatives of the general assembly of this state.

SEC. 12. No political party shall be permitted to nominate candidates for delegates to such convention. All

²⁷ Sec. 9 originally read as follows:

"Sec. 9. The convention shall consist of a number of delegates equal to the whole number of the members composing the house of representatives of this state, and shall be apportioned in the same manner that members of the general assembly are apportioned at the time of such election; they shall be chosen by the same method and by the same electors as choose the general assembly, and all persons entitled to vote for delegates shall be eligible to be elected to a seat in the convention."

It was amended in the Senate to read as follows:

"Sec. 9. The convention shall consist of one hundred and twenty delegates, one hundred shall be apportioned in the same manner that members of the general assembly are apportioned at the time of such election; and twenty delegates at large, all of whom together with the one hundred apportioned among the representative districts shall be chosen by the same method and by the same electors as choose the general assembly, and all persons entitled to vote for delegates shall be eligible to be elected to a seat in the convention."

It was amended by the House to read as it appears in the act.

nominations for delegates to such convention shall be by petition and any voter shall be permitted to become a candidate as such delegate by filing with the secretary of state²⁸ a petition to that effect, signed by one hundred voters of the district in which he proposes to be a candidate. In all other respects such petition shall be governed by the provisions of the general election laws governing petitions for nomination of candidates to the general assembly. All candidates for delegates to said convention from the same district shall be printed in the same column and in alphabetical order according to the surnames of the candidates.

SEC. 13. Delegates, who shall be elected as aforesaid, shall assemble in convention at the capitol in the city of Indianapolis on the first Monday in October,²⁹ 1931, at twelve o'clock noon and organize by electing a delegate as³⁰ president and all other necessary officers. It shall be the duty of the secretary of state to attend the convention on the convening thereof; to call over the lists of districts and counties; receive the credentials of delegates, and, generally to perform the duties of the organization that are usually discharged by the officer whose duty it is by law to attend to the organization of the house of representatives of this state at the commencement of its session; and should the secretary of state fail to attend in person or by deputy at said hour on said day, then it shall be the duty of the auditor of state to attend for such purpose. The custodian of the state-house shall properly prepare the hall of the house of representatives for the use of said convention.

SEC. 14. Delegates, before entering upon the discharge of their duties, shall each be duly sworn or affirmed to support the constitution of the United States,

²⁸ The words "with the secretary of state" were inserted by the House amendment.

²⁹ The word "May" in the original bill was changed to "October" by the House amendment.

³⁰ The words "delegate as" were inserted by the House amendment.

the constitution of the State of Indiana, and honestly and faithfully perform the duties of said office; such oath or affirmation may be administered to them by any judge of the supreme or appellate court.

SEC. 15. Members of said convention shall enjoy the same privileges and immunities in going to, attending upon, and returning from said convention that the members elected to and attending on the general assembly are now entitled to by law. Said convention shall be the judge of the election and qualification of its members; it shall possess the same power to adopt rules, expel a member for disorderly conduct, and punish contempt, that are now exercised by the house of representatives of the general assembly in similar cases. A majority of the members shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and take measures to compel the attendance of absent members.

The members and officers of said convention shall be entitled to the use of the state library and the legislative bureau in the same manner and upon the same conditions that members of the general assembly are allowed the use thereof.

SEC. 16. In the case of a death or resignation of any member of the convention, the governor of this state shall³¹ appoint a qualified voter from the same district to fill such vacancy. The members of the convention shall receive the same mileage while attending upon the sitting of said convention as members of the general assembly are allowed by law and they shall receive a per diem of ten dollars per day, and all the officers, employees and attendants shall be paid the same compensation as like officers, employees and attendants of the general assembly of this state are paid for similar serv-

³¹ After the word "shall," the original bill read: "issue an order for a special election to be held to fill such vacancy in the same manner as now prescribed by law for supplying vacancies in the general assembly of the state." The House amendment inserted the language of the act.

ices; all of which expenses, together with such other expenses as may be incurred by said convention, shall be certified by the president of the convention, and shall be paid by the treasurer of state out of any fund not otherwise appropriated, on the warrant of the auditor of state. Said convention shall not remain in session longer than one hundred and eighty days, Sundays excepted.

SEC. 17. The secretary of state and all other state officers shall furnish said convention with all such papers, statements, statistical information, copies of records or public documents in their possession as the convention may order or require; and it shall be the duty of the proper officer or officers to furnish the members of said convention with all stationery as is usually furnished the general assembly while in session, which shall be paid for on the certificate of the president, in like manner as provided in the preceding section.

SEC. 18. The enrolled copy of the constitution³² adopted by said convention, and the proceedings of said convention, shall be deposited by the president and secretary thereof in the office of the secretary of state, who shall file the same, and cause said constitution to be entered of record in his office; and said convention may submit³³ one or more sections of the proposed constitution as distinct propositions, to be voted upon by the people separately or together, as to the convention seems expedient. Said convention shall have power to fix and prescribe the time, form and manner of submitting the³⁴ new constitution to the electors of the state for their adoption or rejection and for such purpose said convention is given power and authority to call a special election of the electors.

³² The words "or amendments" which occurred after the word "constitution" were stricken out by the House amendment.

³³ The words "one or more amendments or" which occurred after the word "submit" were stricken out by the House amendment.

³⁴ The words "any amendments or" which occurred after the word "submitting" were stricken out by the House amendment and the word "the" inserted.

SEC. 19. It shall be the duty of the secretary of state, so soon as such enrolled proposed constitution or amendments are recorded in his office, to deliver to the governor of the state, a certified copy thereof, who shall, on the meeting of the general assembly of this state at its next session, following such convention, lay the same before them; it shall be the duty of said general assembly, if such constitutional convention has failed to submit its work to the people for adoption or rejection, to pass all laws necessary and proper for submitting the same to the qualified voters for their approval or rejection; and also for organizing the government under the amended constitution, in case it shall be adopted and ratified by a majority of the voters voting thereon, at the election to be held for that purpose. It shall be the duty of the secretary of state to immediately cause ten thousand copies of such acts³⁵ to be printed and distributed to the clerks of the circuit courts of the State of Indiana in proportion to the population of the several counties; said clerks shall cause the auditor of the county to deliver one or more of said copies to each inspector of elections in said county, and the clerks shall certify to the sheriff that the delegates are to be elected and the sheriff shall give notice of said election in the same manner as now provided by law as to the election of members of the general assembly of this state.

SEC. 20. All ballots and blank forms for the holding of such election and all other forms and blanks that will be necessary to carry out the provisions of this act shall be prepared and furnished in the same way that like forms, blanks, and other supplies are prepared and furnished for elections and for the use of the general assembly, by the proper officers, and shall be paid for in the same manner. All election officers shall receive the same compensation as now provided by law for similar services rendered at general elections.

³⁵ The words "this act" were stricken out and the words "such acts" inserted in lieu thereof by the House amendment.

679. OPINIONS: SUBMISSION OF CONSTITUTIONAL AMENDMENTS

During the session of the General Assembly of 1929 the two constitutional amendments which had been proposed in 1927 were readopted and were therefore ready to be submitted to the voters for ratification or rejection.³⁶ At the same session an attempt was made to submit these amendments to the voters, but the bill which was designed to provide for their submission emerged from the General Assembly in an unconstitutional form and was not signed by the governor.³⁷ In this unprecedented situation doubt existed as to whether the two pending amendments should not be printed on the ballot at the general election of 1930 notwithstanding the absence of a valid law for that purpose. After a careful examination of this question, the state board of election commissioners decided that there was no legal authority to submit the amendments to the voters and declined to print them on the ballot.

Prior to the primary election of May 6, 1930 the secretary of state requested an official opinion of the attorney-general relative to the duty of the secretary of state to certify the pending amendments to the several clerks of the circuit courts as prescribed in section 25 of Chapter LXXXVII of the *Laws* of 1889, page 169. In his opinion of April 8, 1930, Attorney-General James M. Ogden advised the secretary of state that the two amendments had not been legally submitted to the voters and that they should not be certified to the clerks of the circuit courts.

Election Laws of Indiana, 1930, p. 56:

The Seventy-fifth General Assembly of the State of Indiana of 1927 proposed 2 amendments to the State Constitution and referred them to the General Assembly of 1929. The Seventy-sixth General Assembly of 1929 adopted these amendments but did not provide for their submission to a referendum vote of the people for ratification or rejection, at the general election to be held in every voting precinct in this state on the first Tuesday after the first Monday in November, 1930, the same being November 4, 1930, therefore these amendments will not be submitted to the voters at the 1930 General election for adoption or rejection.

³⁶ See Documents Nos. 669 and 675, and Documents Nos. 670 and 674.

³⁷ See Document No. 676.

Opinion of attorney-general, April 8, 1930:

Your request requires the decision of the question as to whether the above proposed constitutional amendments have been legally submitted.

Section 1 of Article 16 of the Constitution provides as follows:

“Any amendment or amendments to this constitution may be proposed in either branch of the general assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals, and referred to the general assembly to be chosen at the next general election; and if, in the general assembly so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, *then it shall be the duty of the general assembly to submit such amendment or amendments to the electors of the state; and if a majority of said electors shall ratify the same, such amendment or amendments shall become a part of this constitution.*” (Our italics)

The italicized language above seems to require some act of the General Assembly formally submitting proposed amendments to the people, and that has been the practice throughout the State's history. The adjudicated cases in this state furnish no particular aid other than the indication that some form of submission by the General Assembly is contemplated. For instance, in the case of *in re Boswell*, 179 Ind. 292, at page 299, the court makes the statement that, “it is true that article 16 makes it the duty of the General Assembly to submit proposed amendments which have been approved by two consecutive General Assemblies, *but that constitutional duty is discharged when there has been one submission.*” The provisions of article 16 do not specifically require a resubmission.” (Our italics)

In my opinion, in order to secure the expression of the electorate on a proposed constitutional amendment, there must be a submission by the legislature. No particular form of submission is required, however, and it may well be doubted whether such act of submission requires executive approval. Dodd on *The Revision and Amendment of State Constitutions*, 150 et. seq. However, it appears to me that there must be legislative action of some sort and that action should be such as expresses the legislative intent. In this particular case the attempted submission is by a legislative act which as such is ineffectual for the reason that as ordinary legislation it failed of executive approval on the ground of its unconstitutionality. It remains for me to determine whether the attempted submission can be made effectual as a submission, notwithstanding its failure as ordinary legislation. After careful consideration I am constrained to the opinion that it can not be thus regarded. In the first place, the legislature evidently chose the legislative method of submission by act in preference to submission by resolution. It chose the method of the enactment of a law. The act was given a title and the procedure for the enactment of a law was followed except for the failure to conform with the provision of Article 4 Section 19 of the Constitution, in consequence of which executive approval was withheld. It can not be given effect in the method clearly contemplated by the legislature. In the second place, if the enactment is considered as a resolution, which it clearly is not, it is ambiguous to the extent of being contradictory. For example, the title contemplates a submission at the primary and the body contemplates a submission at the general election. In view of such a situation, how can a court determine when the amendments are to be submitted? It is urged that there was an error in the Engrossing Room which was responsible for the conflict between the title and body of the Act and that a court would be authorized to go back of the enrolled bill as passed and authenticated by the presiding officers of both

houses of the legislature. The rule in Indiana and according to the weight of authority elsewhere, however, is to the contrary.

As said by the court in *Evans, Aud. v. Browne*, 30 Ind. 514, at page 523:

"The doubt is expressed as to our power to enter upon the question," (being the question of the presence of a quorum) "because it should, unless the matter is otherwise clear, have some little weight in the consideration of the inquiry whether we can look behind the official authentication made by the proper officers of the two houses. Courts should be very careful not to invade the authority of the legislature. Nor should anxiety to maintain the constitution, laudable as that must ever be esteemed, lessen their caution in that particular; for if they overstep the authority which belongs to them, and assume that which pertains to the legislature, they violate the very constitution which they thereby seek to preserve and maintain. No person charged with official duties under the judicial department shall exercise any of the functions of the legislative department. Art. 3, sec. 1."

Again on page 524, the following language:

"It has been conceded in the argument for the appellant that the attestation in this case is probably *prima facie* sufficient to show a statute regularly and properly enacted, but contended that this only is the force of the authentication required by the constitution. The houses must keep journals of their proceedings, which, however, are not, like the enrollment, required to be either attested or preserved (1 G. & H. 563.); and it is argued that there is an appeal to these, from the official attestation of the presiding officers, and to the archives in the executive department. Would the journals be as satisfactory to the mind? Such journals, it is notorious, are, and must be, made in haste, in the confusion of business, and are often inaccurate. Their reading is frequently omitted from day to day, so that those errors go without correction. They do not show the nature of the bill as introduced,

but merely the amendments which have been proposed to it. They are not required to contain anything by which it could be even identified and its passage traced. They are not required to show whether or not a quorum is present. Journals such as these have been kept by the legislature of this state from the beginning. The convention which framed the present constitution must be supposed to have had knowledge of these things. Can the opinion be entertained that they meant that the journals, necessarily imperfect and incomplete memorials, should, as evidence, override the solemn attestation of the passage of a bill; which they were so careful to require, by the presiding officers? Or can it be supposed that they meant that two records should be looked to as concurrent proofs of the same fact, and yet made no provision for guidance when these should happen to be in conflict? By what reason or analogy can we sustain ourselves in holding that the journal should override the signatures upon the enrolled act? Surely not because it is, in the nature of things, more likely to speak the whole truth upon the question in hand. Surely not because it is a rule that the truth of any other record in the world, attested as the law requires to make it proof, may be successfully combated by something else, not made by law superior to the attestation of the proper officer."

"This exact question has received the consideration of other American courts, who have thoughtfully and with careful steps reached the conclusion, that the authentication of the presiding officers of the legislature is conclusive evidence of the proper enactment of a law, and that they cannot look elsewhere to falsify it."

Again on page 526 I quote the language of the court as follows:

"But it is argued, that if the authenticated roll is conclusive upon the courts, then less than a quorum of each house may, by the aid of corrupt presiding officers, impose laws upon the state in defiance of the inhibition of the constitution. It must be admitted that the consequence

stated would be possible. Public authority and political power, must, of necessity, be confided to officers, who, being human, may violate the trusts reposed in them. This perhaps cannot be avoided absolutely. But it applies also to all human agencies. It is not fit that the judiciary should claim for itself a purity beyond others; nor has it been able at all times with truth to say that its high places have not been disgraced. The framers of our government have not constituted it with faculties to supervise co-ordinate departments and correct or prevent abuses of their authority. It cannot authenticate a statute; that power does not belong to it; nor can it keep the legislative journal. It ascertains the statute law by looking at its authentication, and then its function is merely to expound and administer it. It cannot, we think, look beyond that authentication, because of the constitution itself. If it may, then for the same reason it may go beyond the journal, when that is impeached; and so the validity of legislation may be made to depend upon the memory of witnesses, and no man can, in fact, know the law, which he is bound to obey. Such consequences would be a large price to pay for immunity from the possible abuse of authority by the high officers who are, as we think, charged with the duty of certifying to the public the fact that a statute has been enacted by competent houses. Human governments must repose confidence in officers. It may be abused, and there may be no remedy."

In my opinion the proposed amendments referred to by you have not been submitted as required by the constitution and that you have no duty to perform with respect to their certification to the clerks of the various counties of the State. The above question is answered in the negative.

You submit the following further question:

"In view of the two amendments to the Constitution of the State of Indiana proposed at the 1927 general assembly and agreed to by the 1929 general assembly

together with the record as shown by the House and Senate Journal and the engrossed bill Senate No. 259 and the affirmative vote thereon by the two Houses of the Legislature providing for the submission of these two amendments to the electors at the May Primary in 1929, is it the duty of the Secretary of State to certify these two amendments to the various county clerks in accordance with Section 25 of Chapter LXXXVII of the Acts of 1889 not less than thirty days before the Primary election on May 6, 1930."

In view of what has already been said it is evident that this question also must be answered in the negative.

APPENDIX

I. VOTE ON LAWYERS' AMENDMENT, NOVEMBER 6, 1906¹

At the election of November 6, 1906 the so-called lawyers' amendment which had been proposed in 1903 and re-adopted in 1905 was submitted to the voters for ratification or rejection. There were 39,061 votes cast in favor of the amendment and 12,128 cast in opposition to it. The aggregate vote cast for all candidates for secretary of state at the same election was 589,044, which was also the largest vote cast for any officer voted for at the election. As a majority of the vote cast at the election was 294,523 and as less than a majority of the votes cast at the election were cast in favor of the amendment, it was defeated. The amendment voted on was designed to amend section 21 of Article VII of the Constitution and provided that "the General Assembly shall, by law, prescribe what qualifications shall be necessary for admission to practice law in all courts of justice."

¹The following table was omitted from the preceding volume. The figures are taken from the Record of Election Returns, 1890-1912, pp. 459-61.

ABSTRACT OF VOTE

CONSTITUTIONAL AMENDMENT

COUNTIES	Yes	No	COUNTIES	Yes	No
Adams.....	230	48	Madison.....	1,021	316
Allen.....	1,289	274	Marion.....	2,796	540
Bartholomew.....			Marshall.....	290	95
Benton.....	517	65	Martin.....	97	121
Blackford.....	479	170	Miami.....	457	128
Boone.....			Monroe.....	463	167
Brown.....	59	143	Montgomery.....	497	385
Carroll.....	262	122	Morgan.....	232	72
Cass.....	928	226	Newton.....	288	29
Clark.....	375	90	Noble.....	307	33
Clay.....	771	319	Ohio.....	111	44
Clinton.....	1,106	529	Orange.....	155	78
Crawford.....	29	68	Owen.....	94	117
Daviess.....	423	195	Parke.....	231	113
Dearborn.....	96	33	Perry.....	164	35
Decatur.....	231	58	Pike.....	87	172
DeKalb.....	349	72	Porter.....	390	43
Delaware.....	573	208	Posey.....	160	24
Dubois.....	188	29	Pulaski.....	348	67
Elkhart.....	993	137	Putnam.....	434	181
Fayette.....	152	50	Randolph.....	283	132
Floyd.....	226	56	Ripley.....	263	39
Fountain.....	135	33	Rush.....	272	100
Franklin.....	320	52	St. Joseph.....	3,111	414
Fulton.....	208	38	Scott.....	111	102
Gibson.....	425	176	Shelby.....		
Grant.....	802	256	Spencer.....	365	270
Greene.....	125	191	Starke.....	93	14
Hamilton.....	595	206	Steuben.....	458	87
Hancock.....	204	62	Sullivan.....	317	81
Harrison.....	194	86	Switzerland.....	32	9
Hendricks.....	260	180	Tippecanoe.....	935	157
Henry.....	693	106	Tipton.....	69	11
Howard.....	476	155	Union.....	77	16
Huntington.....	688	156	Vanderburgh.....	600	87
Jackson.....	160	109	Vermillion.....	327	154
Jasper.....	511	78	Vigo.....		
Jay.....			Wabash.....	612	193
Jefferson.....	295	190	Warren.....	94	52
Jennings.....	842	244	Warrick.....	230	279
Johnson.....	376	63	Washington.....	294	406
Knox.....	293	126	Wayne.....	895	207
Kosciusko.....	714	128	Wells.....	252	117
LaGrange.....	897	126	White.....	1,041	417
Lake.....	368	78	Whitley.....	79	11
LaPorte.....	539	152			
Lawrence.....	233	130	TOTAL.....	39,061	12,128

II. CONSTITUTIONAL AMENDMENTS OF 1921¹

At a special election held on September 6, 1921 thirteen proposed amendments to the Constitution were submitted to the voters for ratification or rejection. These amendments were proposed by the General Assembly of 1919 and were re-adopted by the General Assembly of 1921. The total number of votes cast at the election was 218,698. The number of votes necessary to ratify an amendment was 109,350. The negative vote cast on each amendment except Amendment No. 1 was larger than the affirmative vote, hence each of these amendments was defeated. The affirmative vote cast on Amendment No. 1 was not only larger than the negative vote but likewise exceeded the number of votes necessary to ratify, hence Amendment No. 1 was adopted.²

Amendment No. 1. Sec. 2, Art. II. Conferring full suffrage on women, and restricting suffrage to native-born and fully naturalized citizens.

Amendment No. 2. Sec. 14, Art. II. Providing for classification of counties, townships, cities, and towns for registration of voters.

Amendment No. 3. Secs. 4 and 5, Art. IV. Basing apportionment of members of the General Assembly on votes cast for secretary of state.

Amendment No. 4. Sec. 14, Art V. Authorizing the governor to veto items in appropriation bills.

Amendment No. 5. Sec. 1, Art. VI. Fixing terms of state officers at four years.

Amendment No. 6. Sec. 2, Art. VI. Fixing terms of county officers at four years.

Amendment No. 7. Sec. 11, Art. VII. Fixing terms of prosecuting attorneys at four years.

Amendment No. 8. Sec. 21, Art. VII. Stating qualifications for practice of law.

Amendment No. 9. Sec. 8, Art. VIII. Providing for appointment of state superintendent of public instruction.

Amendment No. 10. Sec. 1, Art. X. Providing for general system of taxation.

Amendment No. 11. Sec. 8, Art. X. Providing for income tax.

Amendment No. 12. Sec. 1, Art. XII. Authorizing negroes to serve in the state militia.

Amendment No. 13. Sec. 2, Art. XV. Prohibiting increases in salaries and extension of terms of public officials during tenure of office.

¹ The figures in the following table are taken from the *Year Book of the State of Indiana*, 1921, pp. 12-17.

² See Document No. 621.

ABSTRACT OF VOTE

CONSTITUTIONAL AMENDMENTS

COUNTIES	First		Second		Third		Fourth		Fifth		Sixth		Seventh	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
State Total.....	130,242	80,574	90,269	110,333	76,963	117,890	83,265	101,790	74,177	113,300	82,389	115,139	76,587	116,683
Adams.....	626	2,363	382	2,567	287	2,628	344	2,390	298	2,509	352	2,576	334	2,593
Allen.....	2,797	2,978	2,127	3,477	1,880	3,614	1,947	3,242	1,857	3,464	2,006	3,532	1,977	3,488
Bartholomew.....	1,406	1,789	1,101	1,032	1,965	1,102	1,000	929	1,006	964	1,172	941	1,046	1,024
Benton.....	1,326	513	636	1,124	603	1,091	697	933	543	1,100	587	1,134	691	1,011
Blackford.....	454	446	267	599	225	622	257	546	251	564	314	551	283	568
Boone.....	1,812	788	1,294	1,215	1,084	1,351	1,189	1,129	966	1,333	1,075	1,371	1,004	1,381
Brown.....	252	309	159	373	129	374	156	327	163	308	206	320	176	332
Carroll.....	1,287	806	930	1,109	798	1,179	828	1,083	741	1,180	783	1,213	754	1,218
Cass.....	2,152	1,506	1,441	2,098	1,316	2,147	1,211	2,083	1,184	2,183	1,289	2,182	1,209	2,208
Clark.....	658	774	401	981	384	981	516	856	456	862	592	819	537	821
Clay.....	1,325	697	950	1,009	827	1,070	877	893	848	964	961	968	886	979
Clinton.....	1,752	900	1,021	1,499	851	1,605	994	1,337	801	1,557	888	1,590	823	1,583
Crawford.....	408	294	351	336	310	361	299	325	341	291	398	304	332	332
Daviess.....	1,167	1,494	528	2,037	449	2,081	544	1,791	443	1,943	592	1,980	503	1,996
Dearborn.....	1,092	702	647	1,051	528	1,137	586	955	514	1,072	620	1,071	547	1,085
Decatur.....	753	633	482	789	376	881	376	779	400	802	490	795	469	798
DeKalb.....	1,229	980	902	1,233	810	1,292	889	1,120	832	1,199	961	1,178	898	1,184
Delaware.....	1,681	1,532	1,147	1,912	1,010	1,969	1,176	1,685	941	1,917	1,069	1,955	1,041	1,909
Dubois.....	772	1,786	441	2,054	345	2,115	421	1,837	432	1,973	542	1,961	477	1,992
Elkhart.....	2,312	530	1,924	795	1,798	856	1,729	776	1,767	781	1,902	811	1,878	774
Fayette.....	688	571	394	801	312	851	317	783	319	809	387	798	326	828
Floyd.....	668	1,046	504	1,169	462	1,181	487	1,022	498	1,097	570	1,116	461	1,177
Fountain.....	949	629	566	955	529	953	569	836	490	925	557	941	515	941
Franklin.....	913	580	700	719	604	771	567	694	670	665	758	651	765	677
Fulton.....	834	618	535	877	506	891	527	769	493	842	570	826	512	860
Gibson.....	1,026	592	622	912	537	958	595	826	552	872	604	887	584	903
Grant.....	2,178	840	1,598	1,219	1,310	1,375	1,411	1,140	1,222	1,315	1,363	1,371	1,271	1,428
Greene.....	1,245	1,702	675	2,187	537	2,465	727	2,067	590	2,348	1,662	2,399	1,592	2,440

Hamilton.....	1,572	1,001	817	1,608	574	1,770	744	1,474	620	1,609	750	1,638	675	1,644
Hancock.....	1,178	796	734	1,170	546	1,226	618	1,068	556	1,200	664	1,199	586	1,226
Harrison.....	664	885	476	1,055	444	1,038	381	960	423	990	512	998	435	1,027
Hendricks.....	1,636	655	1,022	1,136	766	1,287	953	1,043	751	1,207	828	1,252	790	1,279
Henry.....	2,176	432	1,765	702	1,305	1,016	1,228	985	1,123	1,032	1,247	1,053	1,187	1,056
Howard.....	2,000	1,037	1,411	1,544	1,261	1,624	1,100	1,615	1,240	1,563	1,324	1,593	1,167	1,683
Huntington.....	1,412	1,271	1,030	1,576	846	1,711	976	1,479	742	1,728	842	1,728	741	1,755
Jackson.....	1,107	1,242	656	1,608	484	1,652	675	1,409	517	1,608	627	1,618	566	1,640
Jasper.....	1,108	214	702	493	537	622	673	464	499	625	478	689	353	776
Jay.....	988	1,849	408	2,318	348	2,351	422	2,115	360	2,256	458	2,264	391	2,274
Jefferson.....	921	695	622	919	501	989	667	773	483	945	562	961	537	939
Jennings.....	706	485	489	668	371	746	409	633	408	651	476	651	428	671
Johnson.....	894	581	573	801	447	893	533	742	454	822	548	815	522	800
Knox.....	1,626	1,450	1,062	1,915	618	2,259	828	1,912	666	2,126	778	2,136	647	2,190
Kosciusko.....	1,870	1,227	974	1,963	837	2,054	889	1,855	881	1,914	990	1,939	955	1,928
LaGrange.....	556	142	459	199	409	2,228	433	182	417	211	450	222	452	184
Lake.....	4,866	1,822	3,777	1,994	3,292	2,195	2,970	2,189	3,212	2,141	3,461	2,162	3,262	2,277
LaPorte.....	1,986	1,708	1,700	943	1,571	998	1,480	925	1,449	1,017	1,430	1,172	1,353	1,206
Lawrence.....	1,039	487	685	730	594	791	683	645	588	718	654	739	624	736
Madison.....	3,761	1,035	2,644	1,864	2,377	2,024	2,462	1,675	2,294	1,865	2,521	1,951	2,347	2,020
Marion.....	11,309	2,271	8,976	3,547	6,794	4,778	8,076	3,389	6,345	4,557	6,673	4,929	6,392	5,003
Marshall.....	1,460	520	1,257	657	1,176	713	1,159	620	1,144	709	1,165	733	1,156	705
Martin.....	370	593	213	728	170	747	197	650	197	679	246	692	192	718
Miami.....	2,664	785	1,569	1,632	1,385	1,746	1,462	1,518	1,066	1,888	1,141	1,956	1,073	1,972
Monroe.....	821	860	502	1,097	416	1,153	507	1,015	450	1,053	498	1,094	472	1,084
Montgomery.....	1,981	748	1,341	1,270	1,083	1,456	1,280	1,129	1,064	1,341	1,154	1,388	1,101	1,371
Morgan.....	1,225	1,040	861	1,331	740	1,381	766	1,254	682	1,344	787	1,365	697	1,414
Newton.....	706	272	507	432	469	1,447	510	377	325	544	332	570	344	531
Noble.....	1,206	559	987	740	848	837	918	658	922	721	999	704	1,007	667
Ohio.....	110	231	71	266	61	275	66	249	69	256	84	250	64	264
Orange.....	669	604	482	748	403	788	424	676	438	700	514	696	459	720
Owen.....	765	1,238	428	1,529	259	1,647	349	1,439	278	1,558	357	1,579	333	1,579
Parke.....	1,315	339	879	699	776	740	930	547	755	678	810	723	751	734
Perry.....	526	833	373	952	332	957	332	783	362	877	425	920	345	955
Pike.....	430	1,353	250	1,439	178	1,539	241	1,378	187	1,467	237	1,507	207	1,520
Porter.....	983	207	668	379	642	1,384	645	326	597	386	668	427	615	415

CONSTITUTIONAL AMENDMENTS—Continued

COUNTIES	First		Second		Third		Fourth		Fifth		Sixth		Seventh	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Posey.....	930	370	728	520	661	561	649	481	657	502	739	501	708	510
Pulaski.....	962	238	746	415	684	684	640	439	304	754	324	796	364	734
Putnam.....	1,886	736	1,246	1,222	955	1,407	1,267	1,022	1,077	1,234	1,198	1,251	1,086	1,255
Randolph.....	1,947	718	1,454	1,074	1,155	1,203	1,305	993	1,223	1,077	1,393	1,066	1,274	1,118
Ripley.....	1,121	871	822	1,111	661	1,213	721	1,029	643	1,155	719	1,170	642	1,199
Rush.....	1,686	680	1,189	1,025	1,081	1,134	1,148	969	1,005	1,126	1,110	1,119	677	1,495
St. Joseph.....	3,952	2,593	3,758	2,598	3,608	2,635	3,538	2,397	3,357	2,676	3,425	2,802	3,374	2,836
Scott.....	637	309	319	564	254	597	313	499	228	583	308	564	238	604
Shelby.....	2,152	1,104	1,278	1,791	1,067	1,897	928	1,843	871	1,961	1,006	1,987	905	2,006
Spencer.....	744	1,153	528	1,338	473	1,366	499	1,218	520	1,241	656	1,223	539	1,275
Starke.....	685	168	597	245	558	277	540	244	272	502	315	502	308	487
Steuben.....	747	372	540	490	484	529	498	448	476	490	513	510	507	487
Sullivan.....	1,360	683	876	1,009	716	1,053	804	918	737	972	864	966	767	1,024
Switzerland.....	495	452	329	591	301	602	286	563	261	598	341	571	285	589
Tippecanoe.....	2,242	459	1,586	871	1,491	905	1,673	704	1,436	847	1,594	838	1,530	849
Tipton.....	1,131	856	669	1,166	587	1,207	655	1,032	609	1,100	657	1,142	606	1,146
Union.....	488	212	388	297	335	316	347	276	326	293	367	295	343	287
Vanderburgh.....	971	871	700	1,098	662	1,101	602	1,038	633	1,055	721	1,089	736	1,028
Vermillion.....	1,061	322	549	719	699	565	757	460	453	728	520	735	455	756
Vigo.....	2,731	2,425	1,858	3,033	1,704	3,122	1,841	2,735	1,762	2,942	1,900	2,974	1,790	2,998
Wabash.....	1,972	1,195	843	2,150	880	2,094	1,287	1,597	808	2,049	912	2,069	825	2,115
Warren.....	773	505	442	764	351	812	430	688	416	740	471	705	421	733
Warrick.....	603	1,193	341	1,406	305	1,430	346	1,272	355	1,315	433	1,306	377	1,324
Washington.....	741	1,560	431	1,830	352	1,857	436	1,611	401	1,718	509	1,736	415	1,771
Wayne.....	2,361	944	1,835	1,312	1,521	1,493	1,553	1,304	1,454	1,415	1,620	1,480	1,499	1,518
Wells.....	1,372	602	812	1,068	595	1,230	693	1,037	561	1,200	510	1,325	601	1,190
White.....	1,242	636	612	1,180	545	1,212	658	1,117	448	1,244	507	1,265	453	1,284
Whitley.....	882	482	718	610	646	643	679	559	702	558	797	538	745	572

CONSTITUTIONAL AMENDMENTS—Continued

COUNTIES	Eighth		Ninth		Tenth		Eleventh		Twelfth		Thirteenth		Total Number of Electors Who Voted.
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	
State Total.....	78,431	117,479	46,023	149,294	31,786	166,186	39,005	157,827	55,027	142,909	80,191	117,140	218,698
Adams.....	299	2,619	185	2,787	147	2,785	160	2,746	247	2,678	274	2,639	3,033
Allen.....	2,012	3,529	1,366	4,115	1,089	4,514	1,252	4,327	1,449	4,103	1,934	3,608	6,021
Bartholomew.....	927	1,093	575	1,544	357	1,727	485	1,629	658	1,430	1,037	1,091	2,258
Benton.....	537	1,177	248	1,470	183	1,554	234	1,505	427	1,297	584	1,155	1,879
Blackford.....	264	603	160	685	102	781	139	738	177	680	240	618	953
Boone.....	1,072	1,366	408	2,018	333	2,090	426	1,995	625	1,790	1,178	1,283	2,670
Brown.....	116	388	64	449	57	471	75	430	71	457	150	368	533
Carroll.....	609	1,323	269	1,723	188	1,799	248	1,748	332	1,660	717	1,294	2,176
Cass.....	1,207	2,237	674	2,766	443	3,022	556	2,898	789	2,689	1,280	2,205	3,778
Clark.....	493	887	345	1,039	274	1,162	296	1,104	307	1,090	415	959	1,516
Clay.....	728	1,146	440	1,420	357	1,523	441	1,437	541	1,343	898	1,048	2,092
Clinton.....	867	1,595	359	2,096	267	2,202	492	1,983	691	1,781	904	1,606	2,739
Crawford.....	219	427	133	531	144	518	193	460	233	454	293	388	734
Davies.....	405	2,080	236	2,287	175	2,364	241	2,310	386	2,164	544	1,999	2,762
Dearborn.....	570	1,087	361	1,290	236	1,428	263	1,405	382	1,274	570	1,117	1,845
Decatur.....	444	846	261	1,015	216	1,054	287	982	338	966	421	847	1,418
DeKalb.....	845	1,244	499	1,614	299	1,849	477	1,663	596	1,520	771	1,320	2,402
Delaware.....	1,184	1,845	729	2,280	396	2,686	503	2,540	917	2,179	1,055	1,993	3,318
Dubois.....	456	2,041	229	2,252	184	2,305	248	2,439	285	2,195	356	2,155	2,613
Elkhart.....	1,845	826	1,471	1,199	1,166	1,543	1,247	1,470	1,434	1,272	1,768	903	2,956
Fayette.....	387	788	204	987	111	1,083	137	1,056	257	933	311	887	1,314
Floyd.....	396	1,256	227	1,396	178	1,491	177	1,478	347	1,307	464	1,189	1,795
Fountain.....	443	1,041	184	1,309	155	1,342	241	1,242	280	1,213	533	968	1,621
Franklin.....	628	743	280	1,087	219	1,159	230	1,156	297	1,095	453	915	1,521
Fulton.....	474	916	242	1,133	148	1,239	197	1,191	323	1,056	472	938	1,500
Gibson.....	559	942	348	1,136	268	1,248	347	1,161	353	1,152	544	963	1,697
Grant.....	1,349	1,385	814	1,905	702	2,048	775	1,938	1,041	1,728	1,358	1,396	3,018
Greene.....	596	2,456	336	2,669	236	2,732	331	2,683	383	2,636	654	2,396	3,268

CONSTITUTIONAL AMENDMENTS—Continued

COUNTIES	Eighth		Ninth		Tenth		Eleventh		Twelfth		Thirteenth		Total Number of Electors Who Voted.
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	
Hamilton.....	706	1,646	333	2,032	235	2,150	325	2,040	460	1,923	734	1,672	2,666
Hancock.....	655	1,176	304	1,531	235	1,596	314	1,514	428	1,417	694	1,183	1,974
Harrison.....	424	1,048	245	1,245	248	1,238	375	1,131	384	1,129	447	1,052	1,630
Hendricks.....	787	1,295	310	1,765	224	1,822	357	1,695	499	1,583	936	1,212	2,344
Henry.....	1,484	865	618	1,666	930	1,815	638	1,637	764	1,552	1,545	849	2,608
Howard.....	1,088	1,762	581	2,280	414	2,431	493	2,389	1,012	1,898	1,183	1,693	3,159
Huntington.....	853	1,695	458	2,102	414	2,161	625	1,943	690	1,867	883	1,690	2,778
Jackson.....	507	1,710	244	1,970	190	2,040	219	2,011	315	1,901	559	1,685	2,413
Jasper.....	435	712	257	891	168	988	297	847	471	710	534	642	1,372
Jay.....	400	2,283	251	2,443	199	2,531	259	2,470	335	2,405	372	2,346	2,837
Jefferson.....	509	997	297	1,190	200	1,312	311	1,199	384	1,112	622	898	1,687
Jennings.....	380	726	191	905	198	914	266	843	303	821	477	665	1,239
Johnson.....	496	856	253	1,086	173	1,178	254	1,087	349	1,025	556	837	1,470
Knox.....	806	2,109	348	2,651	271	2,647	335	2,581	481	2,416	745	2,187	3,164
Kosciusko.....	903	2,004	430	2,445	287	2,716	454	2,457	636	2,285	824	2,099	3,197
LaGrange.....	438	214	294	345	281	376	316	336	374	276	466	203	744
Lake.....	3,960	1,855	2,537	2,948	1,817	3,962	1,758	4,002	2,673	3,226	3,077	2,444	7,165
LaPorte.....	1,474	1,122	952	1,667	519	2,156	560	2,122	1,038	1,557	1,302	1,268	2,890
Lawrence.....	726	1,688	454	957	256	1,139	314	1,053	433	957	631	810	1,573
Madison.....	2,382	2,039	1,383	3,035	1,012	3,517	1,268	3,167	1,577	2,888	2,468	1,981	5,017
Marion.....	7,219	4,645	4,588	6,989	2,548	9,029	3,078	8,421	4,860	7,774	8,108	4,195	14,556
Marshall.....	1,181	707	743	1,162	391	1,509	504	1,402	825	1,074	1,063	841	1,980
Martin.....	192	729	107	816	76	849	116	814	155	772	208	733	996
Miami.....	1,138	1,982	604	2,481	419	2,687	559	2,525	884	2,215	1,415	1,751	3,588
Monroe.....	561	1,045	325	1,284	217	1,378	259	1,316	361	1,233	478	1,115	1,759
Montgomery.....	1,060	1,462	638	1,934	346	2,213	433	2,076	705	1,814	1,300	1,442	2,853
Morgan.....	664	1,449	311	1,814	202	1,940	258	1,862	405	1,726	789	1,380	2,348
Newton.....	481	455	163	741	134	786	239	676	289	623	457	465	1,010

Noble.....	970	717	434	1,254	400	1,309	530	1,168	691	984	885	815
Ohio.....	65	271	50	281	39	298	49	289	57	278	62	360
Orange.....	401	798	265	923	219	972	232	939	389	825	434	1,337
Owen.....	279	1,624	149	1,749	127	1,795	182	1,737	250	1,675	359	2,053
Parke.....	679	816	414	1,091	365	1,161	511	1,016	456	1,069	835	1,717
Perry.....	282	1,024	183	1,099	195	1,125	268	1,061	273	1,045	344	1,405
Pike.....	218	1,508	116	1,615	97	1,647	132	1,620	172	1,570	219	1,783
Porter.....	671	384	465	576	331	760	347	719	583	477	584	1,248
Posey.....	732	496	517	703	448	776	556	681	588	641	675	1,330
Pulaski.....	662	486	217	875	164	946	203	913	298	806	639	1,237
Putnam.....	1,065	1,297	539	1,871	537	1,748	619	1,730	735	1,634	1,393	2,622
Randolph.....	1,106	1,270	597	1,836	449	2,022	621	1,805	915	1,558	1,202	2,766
Ripley.....	571	1,287	342	1,518	282	1,587	459	1,410	523	1,357	634	1,255
Rush.....	1,076	1,115	352	1,848	192	2,039	298	1,942	617	1,569	822	2,059
St. Joseph.....	3,659	2,589	3,022	3,208	952	5,590	955	5,561	2,614	3,697	3,212	2,439
Scott.....	253	606	104	744	101	769	171	699	184	682	291	6,934
Shelby.....	962	1,977	487	2,447	312	2,698	402	2,572	621	2,322	907	3,375
Spencer.....	266	1,561	169	1,634	122	1,696	191	1,636	222	1,596	553	1,970
Starke.....	486	337	169	643	132	696	161	661	213	609	459	908
Steuben.....	434	568	223	789	165	855	255	754	384	640	507	1,104
Sullivan.....	738	1,060	500	1,301	362	1,433	416	1,389	458	1,370	790	2,043
Switzerland.....	284	622	170	728	162	739	207	681	226	686	267	973
Tippecanoe.....	1,548	884	1,040	1,413	499	2,039	651	1,872	1,212	1,223	1,497	2,701
Tipton.....	585	1,212	230	1,548	194	1,658	230	1,568	341	1,454	660	1,948
Union.....	370	293	130	529	116	550	154	505	158	497	340	740
Vanderburgh.....	704	1,060	550	1,199	358	1,423	380	1,391	453	1,354	622	1,941
Vermillion.....	479	746	304	917	235	1,011	256	982	296	971	709	1,431
Vigo.....	1,923	2,916	1,483	3,359	1,074	3,806	1,156	3,701	1,447	3,458	1,803	5,407
Wabash.....	624	2,325	484	2,467	287	2,677	369	2,593	498	2,468	1,352	3,167
Warren.....	374	771	237	942	160	1,068	186	986	335	838	395	1,345
Warrick.....	303	1,408	163	1,546	126	1,594	187	1,532	217	1,500	336	1,820
Washington.....	385	1,831	198	2,008	148	2,076	201	2,023	288	1,940	404	2,301
Wayne.....	1,588	1,472	923	2,127	528	2,568	706	2,399	1,073	2,014	1,508	3,545
Wells.....	682	1,146	323	1,486	269	1,572	362	1,492	294	1,597	658	2,042
White.....	501	1,204	311	1,442	187	1,581	223	1,526	321	1,444	525	1,878
Whitley.....	666	656	297	1,021	218	1,113	297	1,034	389	940	628	1,437

III. CONSTITUTIONAL AMENDMENTS OF 1926¹

At the general election of November 2, 1926 four proposed amendments to the Constitution were submitted to the voters for ratification or rejection. The numbers, general subjects of these proposed amendments, and the section and Article of the Constitution which were proposed to be amended are as follows:

Amendment No. 1. Sec. 14 of Art. II. Classification of counties, townships, cities, and towns for the registration of voters.

Amendment No. 2. Secs. 4 and 5 of Art. IV. Basing apportionment of members of the General Assembly on the vote cast for secretary of state.

Amendment No. 3. Sec. 2 of Art. XV. Prohibiting increases in the salaries and terms of public officials during their terms of office.

Amendment No. 4. New sec. 8 of Art. X. Income tax.

According to the election returns, there were 1,052,994 voters who participated in the election at which these amendment were submitted. Hence an amendment would have to receive at least 526,498 affirmative votes to be adopted. As none of the amendments received that many votes, they were all rejected.

¹ The figures in the following table were taken from the *Year Book of the State of Indiana*, 1926, pp. 74-77.

ABSTRACT OF VOTE

CONSTITUTIONAL AMENDMENTS

	FIRST AMENDMENT		SECOND AMENDMENT	
	Yes	No	Yes	No
Adams.....	1,326	2,054	1,174	2,113
Allen.....	3,295	2,832	2,722	2,866
Bartholomew.....	2,830	2,280	2,663	2,370
Benton.....	1,658	1,072	1,532	1,108
Blackford.....	1,493	1,184	1,356	1,240
Boone.....	629	770	532	733
Brown.....	419	524	415	508
Carroll.....	2,145	1,644	2,114	1,659
Cass.....	4,024	6,438	3,787	6,515
Clark.....	2,130	4,097	2,018	4,354
Clay.....	3,309	3,579	3,108	3,743
Clinton.....	917	1,047	899	1,061
Crawford.....	645	912	631	936
Daviess.....	3,233	2,516	3,173	2,492
Dearborn.....	1,942	2,405	1,816	2,460
Decatur.....	1,636	2,644	1,563	2,689
DeKalb.....	2,613	3,004	2,289	3,072
Delaware.....	2,452	2,078	2,216	2,109
Dubois.....	1,793	1,495	1,801	1,533
Elkhart.....	5,851	3,157	5,296	3,399
Fayette.....	1,663	1,583	1,618	1,616
Floyd.....	2,291	4,262	2,028	4,408
Fountain.....	1,204	573	1,135	609
Franklin.....	1,260	1,052	1,282	1,142
Fulton.....	1,810	1,535	1,724	1,539
Gibson.....	3,343	1,892	3,313	1,977
Grant.....	4,475	4,096	4,320	4,115
Greene.....	2,679	3,813	2,553	3,962
Hamilton.....	2,841	2,224	2,329	2,207
Hancock.....	1,980	1,956	1,938	1,992
Harrison.....	1,251	1,941	1,229	1,919
Hendricks.....	460	434	416	433
Henry.....	3,659	2,109	3,146	2,152
Howard.....	3,050	4,222	2,740	4,349
Huntington.....	4,536	2,317	4,240	2,460
Jackson.....	1,966	2,024	1,925	2,105
Jasper.....	1,821	968	1,580	998
Jay.....	2,057	2,970	1,948	3,084
Jefferson.....	1,617	2,571	1,525	2,659
Jennings.....	1,243	1,645	1,162	1,684
Johnson.....	1,581	2,068	1,475	2,050
Knox.....	3,726	4,248	3,556	4,383
Kosciusko.....	3,086	2,322	2,902	2,492
LaGrange.....	1,360	648	1,184	645
Lake.....	1,991	3,113	1,761	2,791
LaPorte.....	5,774	3,740	5,159	4,087
Lawrence.....	2,137	2,485	1,979	2,563
Madison.....	940	1,063	911	971
Marion.....	3,568	3,909	3,170	4,015
Marshall.....	3,162	1,768	2,883	1,831
Martin.....	843	637	826	653
Miami.....	2,464	3,118	2,296	3,182
Morroe.....	2,709	2,285	2,546	2,367
Montgomery.....	1,098	1,024	1,046	989
Morgan.....	2,542	1,564	2,474	1,621

CONSTITUTIONAL AMENDMENTS—Continued

	FIRST AMENDMENT		SECOND AMENDMENT	
	Yes	No	Yes	No
Newton.....	268	217	232	224
Noble.....	3,242	1,815	3,098	1,939
Ohio.....	431	590	463	592
Orange.....	1,296	1,235	1,244	1,237
Owen.....	1,565	1,239	1,498	1,296
Parke.....	2,306	1,508	2,347	1,519
Perry.....	1,062	2,106	1,030	2,144
Pike.....	1,548	1,993	1,482	2,026
Porter.....	2,273	2,328	1,990	2,450
Posey.....	2,269	1,323	2,114	1,459
Pulaski.....	1,267	419	1,208	400
Putnam.....	3,010	1,643	1,967	1,686
Randolph.....	2,573	1,971	2,380	2,061
Ripley.....	2,160	2,025	2,136	2,108
Rush.....	1,967	2,421	1,898	2,459
St. Joseph.....	1,629	1,101	1,440	1,125
Scott.....	803	846	714	868
Shelby.....	3,012	2,940	2,796	3,050
Spencer.....	776	300	790	306
Starke.....	1,433	720	1,433	712
Steuben.....	1,730	919	1,528	984
Sullivan.....	2,850	2,845	2,627	2,964
Switzerland.....	878	1,095	809	1,122
Tippecanoe.....	1,053	1,323	932	1,340
Tipton.....	1,958	1,613	1,794	1,687
Union.....	802	763	699	785
Vanderburgh.....	543	577	434	475
Vermillion.....	2,217	1,705	2,154	1,783
Vigo.....	6,819	8,574	6,221	8,989
Wabash.....	3,024	2,986	2,737	3,013
Warren.....	1,043	600	972	621
Warrick.....	1,474	365	1,511	376
Washington.....	1,261	1,116	1,233	1,116
Wayne.....	4,516	3,506	4,020	3,646
Wells.....	2,137	1,205	1,904	1,297
White.....	2,285	1,715	2,081	1,848
Whitley.....	2,573	1,126	2,488	1,211
Total.....	198,579	184,684	183,828	189,928

CONSTITUTIONAL AMENDMENTS—Continued

	THIRD AMENDMENT		FOURTH AMENDMENT		Total Number Electors Who Voted
	Yes	No	Yes	No	
Adams.....	1,128	1,992	1,579	2,124	6,954
Allen.....	2,822	2,989	2,598	3,760	34,936
Bartholomew.....	2,665	2,076	3,228	2,387	11,655
Benton.....	1,535	1,069	2,485	1,081	5,844
Blackford.....	1,292	1,121	1,567	1,332	5,871
Boone.....	645	695	1,119	879	11,249
Brown.....	407	464	456	499	1,826
Carroll.....	2,060	1,573	3,682	1,518	8,444
Cass.....	3,756	6,162	4,362	6,596	16,345
Clark.....	1,853	4,084	1,809	4,647	11,630
Clay.....	3,157	3,383	4,007	3,703	11,869
Clinton.....	959	1,040	1,464	1,255	12,820
Crawford.....	613	831	1,074	837	4,926
Daviess.....	3,076	2,363	3,943	2,543	11,512
Dearborn.....	1,742	2,325	2,573	2,528	9,602
Decatur.....	1,577	2,530	1,705	2,723	8,787
DeKalb.....	2,372	2,860	2,418	3,182	9,092
Delaware.....	2,298	2,030	2,636	2,576	16,869
Dubois.....	1,745	1,513	3,205	1,563	7,757
Elkhart.....	5,250	3,152	4,640	4,855	14,696
Fayette.....	1,553	1,474	2,076	1,888	7,083
Floyd.....	1,953	4,230	1,692	5,152	13,135
Fountain.....	1,173	545	1,881	710	9,062
Franklin.....	1,090	1,045	2,699	1,100	6,260
Fulton.....	1,693	1,451	3,009	1,565	7,380
Gibson.....	3,154	1,778	5,638	2,122	14,686
Grant.....	4,036	3,886	6,111	4,343	16,909
Greene.....	2,482	3,622	3,438	3,814	13,287
Hamilton.....	2,429	2,096	3,212	2,366	10,086
Hancock.....	1,892	1,898	2,711	2,015	7,934
Harrison.....	1,279	1,736	1,403	1,780	8,264
Hendricks.....	489	421	864	512	9,078
Henry.....	3,104	2,150	3,159	2,875	12,204
Howard.....	2,912	4,008	2,608	4,744	11,853
Huntington.....	4,228	2,230	4,800	2,845	12,056
Jackson.....	1,735	1,912	3,008	2,131	9,387
Jasper.....	1,513	899	3,077	923	5,450
Jay.....	1,848	2,892	2,922	3,032	10,026
Jefferson.....	1,581	2,413	1,464	2,780	9,685
Jennings.....	1,216	1,540	1,641	1,643	6,569
Johnson.....	1,471	1,958	1,912	2,193	9,339
Knox.....	3,387	3,943	4,236	4,691	18,290
Kosciusko.....	2,819	2,310	4,332	2,521	10,896
LaGrange.....	1,223	597	1,544	747	4,249
Lake.....	1,678	2,892	1,565	4,959	29,084
LaPorte.....	4,855	3,817	6,187	5,109	17,626
Lawrence.....	1,927	2,351	1,838	2,691	9,868
Madison.....	1,027	974	1,047	1,365	28,248
Marion.....	3,350	4,000	2,024	7,203	92,802
Marshall.....	2,899	1,740	3,400	2,076	9,501
Martin.....	851	591	1,329	627	4,764
Miami.....	2,271	2,978	3,139	3,321	13,460
Monroe.....	2,225	2,119	2,415	2,646	10,213
Montgomery.....	1,227	1,006	2,097	1,151	12,684
Morgan.....	2,455	1,430	3,480	1,588	9,115

CONSTITUTIONAL AMENDMENTS—Continued

	THIRD AMENDMENT		FOURTH AMENDMENT		Total Number Electors Who Voted
	Yes	No	Yes	No	
Newton.....	259	225	822	254	3,923
Noble.....	3,085	1,810	4,011	2,078	9,174
Ohio.....	405	579	865	441	2,310
Orange.....	1,083	1,135	1,314	1,229	7,462
Owen.....	1,515	1,191	2,230	1,217	5,600
Parke.....	2,413	1,381	3,634	1,489	8,090
Perry.....	911	2,052	1,914	2,061	7,419
Pike.....	1,418	1,863	2,199	1,929	7,654
Porter.....	1,948	2,424	2,339	2,901	7,708
Posey.....	2,097	1,297	2,807	1,392	8,208
Pulaski.....	1,213	389	2,136	528	5,350
Putnam.....	1,365	1,511	4,380	1,844	9,221
Randolph.....	2,519	1,837	3,813	2,030	10,303
Ripley.....	2,294	1,906	3,173	2,279	9,156
Rush.....	1,861	2,236	2,672	2,441	8,782
St. Joseph.....	1,424	1,182	1,406	2,311	32,347
Scott.....	742	830	912	839	3,569
Shelby.....	2,927	2,841	3,099	3,461	12,093
Spencer.....	1,102	203	2,152	265	8,877
Starke.....	1,412	651	2,254	725	4,798
Steuben.....	1,510	948	2,022	1,141	4,884
Sullivan.....	2,592	2,673	2,927	3,216	11,050
Switzerland.....	786	1,044	1,039	1,107	4,636
Tippecanoe.....	984	1,374	1,794	1,827	15,546
Tipton.....	1,764	1,494	1,929	1,854	7,981
Union.....	683	738	1,095	821	3,147
Vanderburgh.....	623	413	989	779	24,891
Vermillion.....	1,983	1,700	2,569	2,116	8,135
Vigo.....	6,332	8,447	4,736	11,364	29,574
Wabash.....	2,974	2,799	3,214	3,239	10,336
Warren.....	919	593	1,660	712	3,465
Warrick.....	1,530	384	3,075	483	7,971
Washington.....	1,130	1,069	1,818	1,078	7,033
Wayne.....	4,095	3,422	3,529	4,892	15,410
Wells.....	1,929	1,168	3,110	1,276	7,687
White.....	2,088	1,699	3,642	1,652	7,781
Whitley.....	2,564	1,056	3,946	1,137	8,206
Total.....	182,456	177,748	239,734	212,224	1,052,994

IV. AMENDMENTS PROPOSED TO CONSTITUTION OF 1851¹

PREAMBLE

DATE	DOCUMENT
	<p>TO THE END, that justice be established, public order maintained, and liberty perpetuated; WE, the PEOPLE of the STATE OF INDIANA, grateful to ALMIGHTY GOD for the free exercise of the right to choose our own form of government, do ordain this CONSTITUTION.</p>

AMENDMENTS PROPOSED

1865	H. S. Acknowledging Almighty God as source of all authority and power in civil government, Jesus Christ as ruler among nations, and His revealed will as of Supreme Authority. Failed in both houses.	232
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ARTICLE I

BILL OF RIGHTS

ART. I, SEC. 12. All courts shall be open; and every man, for injury done to him in his person, property, or reputation, shall have remedy by due course of law. Justice shall be administered freely, and without purchase; completely, and without denial; speedily, and without delay.

AMENDMENTS PROPOSED

1911	M. C. Authorizing Assembly to enact compulsory workmen's compensation law and to define hazardous employment.	505
1913-15	S. Authorizing Assembly to enact compulsory workmen's compensation law and to define hazardous employment. Passed Senate: 34-8; passed House: 73-2.	526
(1915)	Passed Senate: 36-6; failed in House.	533

¹ The following abbreviations are used in this table: H., House, indicating that action was begun in that body. S., Senate, indicating that action was begun in that body. H.S. indicates that the measure was simultaneously introduced in both houses. M. C., Marshall Constitution of 1911.

DATE

DOCUMENT

ART. I, SEC. 13. In all criminal prosecutions, the accused shall have the right to a public trial, by an impartial jury, in the county in which the offense shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor.

AMENDMENTS PROPOSED

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| 1919 | S. Granting state right of change of venue in criminal cases. Failed in Senate. | 608 |
| 1923 | H. Granting state right of change of venue in criminal cases. Failed in House. | 653 |
| | H. Changing provision relative to trial by jury. Failed in House. | 654 |

ART. I, SEC. 20. In all civil cases, the right of trial by jury shall remain inviolate.

AMENDMENTS PROPOSED

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| 1916 | Prog. Platform. Favoring verdicts by three-fourths vote. | 539 |
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ART. I, SEC. 21. No man's particular services shall be demanded, without just compensation: No man's property shall be taken by law, without just compensation; nor, except in case of the State, without such compensation first assessed and tendered.

AMENDMENTS PROPOSED

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| 1911 | M. C. Prohibiting state from taking private property except in cases of necessity and then only if compensation be first tendered. | 505 |
|------|--|-----|

DATE		DOCUMENT
	PROPOSED NEW SECTIONS	
1889	S. Sec. 38. Prohibiting manufacture and sale of intoxicating liquor. Failed in Senate.	410
	H. Sec. 38. Prohibiting manufacture and sale of intoxicating liquor. Failed in House.	410

ARTICLE II

SUFFRAGE AND ELECTION²

ART. II, SEC. 2. In all elections, not otherwise provided for by this Constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months immediately preceding such election; and every white male, of foreign birth, of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this State during the six months immediately preceding such election, and shall have declared his intention to become a citizen of the United States, conformably to the laws of the United States on the subject of naturalization; shall be entitled to vote, in the township or precinct where he may reside.

AMENDMENTS PROPOSED

1855	H. Requiring aliens to be naturalized to vote; residential qualifications changed. Passed House: 55-29; failed in Senate.	156
	H. Requiring aliens to be naturalized to vote. Failed in House.	159
	H. Requiring aliens to be naturalized to vote. Defeated in House: 35-46.	159
1856	Dem. Platform. Approving constitutional provisions on alien voting.	162
	Rep. Platform. Approving naturalization and 5-year probation period for alien voters.	162

² See also Article XV, Proposed New Sections.

332 INDIANA HISTORICAL COLLECTIONS

DATE		DOCUMENT
1857	Rep. Meeting, Indianapolis. Approving limitation of suffrage to citizens by birth or naturalization.	162
	Rep. Editors Assoc. Approving limitation of suffrage and right to hold office to citizens by birth or naturalization.	162
	Amer. Platform. Approving limitation of suffrage and right to hold office to citizens by birth or naturalization.	162
	H. Requiring aliens to be naturalized to vote; to reside in county 40 days and in precinct 10 days. Failed in House.	164
	H. Requiring residence 40 days in township and 10 days in precinct to vote. Attempts to amend: 20 days in county; 40 days in county, and 10 days in township; restricting suffrage to native-born and naturalized citizens. Passed House: 63-23; failed in Senate.	166
	H. Requiring residence 1 year in state to vote. Passed House: 68-18. Attempted Senate Amendment: requiring residence 5 years. Failed in Senate.	168
	S. Restricting suffrage to citizens; requiring residence 30 days in township or precinct. Failed in Senate.	170
1858	H. Restricting suffrage to native-born or naturalized citizens. Failed in House.	175
1859	H. Restricting suffrage to white male citizens. Failed in House.	182
1861	H. Requiring residence 60 days in county and at least 30 days in township or precinct to vote. Failed in House.	197
	H. Requiring residence 30 days in township and registration to vote. Failed in House.	198
1861-63	S. Authorizing Assembly to fix length of residence of voters in county, township, precinct, or ward and to provide for registration of voters. Passed Senate: 38-2; passed House: 88-2.	196
(1863)	Passed Senate: 35-2. Failed in House.	213
1863	H. Authorizing soldiers to vote. Failed in House.	217
1865	Message of Gov. Morton. Favoring authorizing soldiers to vote.	219
	S. Authorizing soldiers to vote; guarding against fraudulent voting. Failed in Senate.	220

DATE	DOCUMENT	
	S. Memorial. Favoring authorizing negroes and mulattoes to vote.	227
	H. Authorizing soldiers to vote. Failed in House.	229
	H. Conferring suffrage on women. Failed in House.	244
1868	Dem. Platform. Opposing granting right of suffrage to negroes.	252
1871	S. Conferring suffrage on women. Amended: limiting suffrage to white women. Failed in Senate.	263 264 265
1872	Message of Gov. Baker. Favoring residential qualifications for voters.	279
1873	Message of Gov. Hendricks. Favoring residential qualifications for voters.	283
	S. Conferring suffrage on women. Failed in Senate.	284
	Message of Gov. Baker. Favoring woman suffrage.	286
	H. Petition for woman suffrage.	287
	H. Conferring suffrage on women. Failed in House.	288
1873-75	H. Conferring suffrage on negroes; requiring residence 12 months in state, 3 months in county, and 30 days in township or precinct. Passed House: 80-77. Attempted Senate Amendment: conferring suffrage on women. Passed Senate: 30-6.	284
(1875)	Defeated in House: 50-41.	293
1877	Message of Gov. Hendricks. Favoring residence qualifications of at least 60 days in precinct to vote.	294
	S. Conferring suffrage on negroes; prescribing residence 60 days in township or precinct; requiring voters to register. Failed in Senate.	295
	S. Conferring suffrage on women. Failed in Senate.	295
	S. Prescribing qualifications and requiring registration of voters. Failed in Senate.	297
	H. Requiring registration and residence 60 days in township or precinct to vote. Passed House: 67-9; failed in Senate.	299
	H. Requiring presentation of tax receipt as qualification to vote. Failed in House.	300

DATE		DOCUMENT
1877	H. Conferring suffrage on negroes. Passed House: 66-10; failed in Senate.	300
1877-81	S. Conferring suffrage on negroes; prescribing residence 60 days in township and 30 days in ward or precinct; authorizing Assembly to require registration. Attempted Amendment: restricting suffrage extended to aliens to white males. Passed Senate: 39-4; passed House: 81-2.	295
(1879)	Passed Senate: 37-12; passed House: 60-34.	309
(1880)	Submitted to voters on Apr. 5, 1880: vote for, 169, 479; vote against, 152, 363; total vote cast at election 380, 771; majority of votes cast, 190, 386; held neither adopted nor rejected in State <i>v. Swift</i> , 69 <i>Indiana</i> , 505.	and 318
(1881)	Resubmitted at special election on Mar. 14, 1881: vote for, 123,736; vote against, 45,975; total vote cast at election, 172,900; majority of votes cast, 86,451; declared in force by proclamation of governor on Mar. 24, 1881.	

(1881) ART. II, SEC. 2. In all elections, not otherwise provided for by this Constitution, every male citizen of the United States, of the age of twenty-one years and upward, who shall have resided in the State during the six months, and in the township sixty days, and in the ward or precinct thirty days immediately preceding such election, and every male of foreign birth of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this State during the six months, and in the township sixty days, and in the ward or precinct thirty days immediately preceding such election, and shall have declared his intention to become a citizen of the United States, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote in the township or precinct

DATE	DOCUMENT
	where he may reside, if he shall have been duly registered according to law.
AMENDMENTS PROPOSED	
1881	S. Conferring suffrage on women. Failed in Senate. 340
1881-83	H. Conferring suffrage on women. Passed House: 62-24; passed Senate: 27-18. 339
(1882)	Rep. Platform. Favoring adoption and submission of pending amendment. 355
(1883)	Passed House: 53-42; failed in Senate. 363
1883	S. Memorial. Approving pending amendment. 357
	S. Conferring suffrage on women. Withdrawn by author. 364
1885	H. Conferring suffrage on women. Defeated in House: 43-45. 378
	S. Conferring suffrage on women. Defeated in Senate: 22-25. 379
1887	H. Prescribing qualifications for suffrage. Failed in House. 396
1889-91	H. Requiring residence 1 year in state to vote. Passed House: 87-0; passed Senate: 43-0. 403
(1891)	Defeated in House: 1-74. 417
1891	H. Approving woman suffrage. Failed in House. 426
	S. Approving woman suffrage. Failed in Senate. 426
1895	H. Requiring aliens to be naturalized and to reside in the United States 5 years to vote. Passed House: 67-11; defeated in Senate: 13-21. 440
	H. Conferring suffrage on women; requiring aliens to reside 5 years in United States to vote. Failed in House. 444
1899	S. Conferring suffrage on women. Failed in Senate. 459
	H. Conferring suffrage on women. Failed in House. 459
1901	H. Conferring suffrage on women. Passed House: 52-32; failed in Senate. 470
1905	S. Requiring payment of poll tax and ability to read and write English language; authorizing Assembly to provide for permanent registration of voters. Attempted Amendment: conferring suffrage on women. Failed in Senate. 482

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DATE	DOCUMENT	
1907	S. Requiring payment of poll tax and ability to read and write English language; authorizing Assembly to provide for permanent registration of voters. Defeated in Senate: 19-23.	488
	H. Requiring aliens to be naturalized to vote. Failed in House.	491
1909	H. Requiring aliens to be naturalized to vote; requiring residence 1 year in state. Failed in House.	501
1911	Message of Gov. Marshall. Favoring requirement that aliens be naturalized to vote.	504
	M. C. Restricting suffrage to male citizens of United States; requiring residence 12 months in state, registration, payment of poll tax, and ability to read.	505
	S. Restricting right of suffrage to male citizens over 21 years of age; authorizing Assembly to require registration in whole state or any portion thereof. Failed in Senate.	509
	H. Restricting suffrage to male citizens over 21 years of age; requiring residence 6 months in county. Failed in House.	510
	S. Conferring suffrage on women. Failed in Senate.	515
1912	Rep. Platform. Indorsing woman suffrage.	518
	Prog. Platform. Indorsing woman suffrage.	519
	Soc. Platform. Indorsing woman suffrage.	520
1913	S. Restricting suffrage to male citizens over 21 years of age; requiring residence 12 months in state; authorizing Assembly to require registration of voters and to exempt counties having population of less than 50,000; question of woman suffrage to be decided by vote of women over 21 years of age at an election in May, 1917. Failed in Senate.	526
	S. Conferring suffrage on women. Failed in Senate.	528
1913-15	S. Restricting suffrage to male citizens over 21 years of age; requiring residence 12 months in state; authorizing Assembly to require registration of voters and to exempt counties having population of less than 50,000. Passed Senate: 34-8; passed House: 73-2.	526
(1915)	Message of Gov. Ralston. Approving above amendment.	532

DATE	DOCUMENT
	Passed Senate: 29-13; failed in House. 533
1916	Prog. Platform. Favoring restriction of suffrage to citizens; equal suffrage for women. 539
	Soc. Platform. Favoring woman suffrage. 541
1917	H. Requiring foreign-born persons to live in United States 5 years and all persons to pay poll tax to vote. Amended: foreign-born persons to live in United States 3 years. Failed in House. 554
	S. Conferring suffrage on women; restricting suffrage to native-born and naturalized persons; requiring residence 1 year in state. Amended: restricting suffrage to male persons. Passed Senate: 37-2; failed in House. 555
	H. Conferring suffrage on women. Failed in House. 558
1918	Prohi. Platform. Indorsing woman suffrage; requiring naturalization for foreign-born to vote or hold office. 568
	Soc. Platform. Indorsing woman suffrage. 569
	Dem. Platform. Indorsing woman suffrage. 571
1919	Message of Gov. Goodrich. Favoring woman suffrage; restricting right to vote and hold office to citizens. 572
	S. Conferring suffrage on women; restricting right to vote to citizens. Failed in Senate. 603
1919-21	S. Conferring suffrage on women; restricting suffrage to citizens. Passed Senate: 44-0; passed House: 90-0. 601
(1920)	Dem. Platform. Indorsing pending suffrage amendment. 616
(1921)	Passed Senate: 45-2; passed House: 74-0. Submitted to voters on Sept. 6, 1921: vote for, 130,242; vote against, 80,574; total vote cast at election, 218,696; majority of vote cast at election, 109, 349; ratified; declared in force by proclamation of governor on Sept. 13, 1921. 621

(1921) ART. II, SEC. 2. In all elections not otherwise provided for by this Constitution, every citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months, and in the township sixty days, and in the ward or pre-

DATE		DOCUMENT
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cinct thirty days immediately preceding such election, shall be entitled to vote in the township or precinct where he or she may reside.

ART. II, SEC. 4. No person shall be deemed to have lost his residence in the State by reason of his absence, either on business of this State or of the United States.

AMENDMENTS PROPOSED

1911	M. C. Requiring persons absent from state 12 months or more except on business of state or United States, and desiring to retain residence, to notify clerk of circuit court of home county, in writing, of intent to retain residence and location thereof.	505
1913	S. Requiring persons absent from state 12 months or more except on business of state or United States, and desiring to retain residence, to notify clerk of circuit court of home county, in writing, of intent to retain residence and location thereof. Failed in Senate.	526

ART. II, SEC. 5. No Negro or Mulatto shall have the right of suffrage.

AMENDMENTS PROPOSED

1873-75	H. Repealing section. Passed House: 68-9; passed Senate: 28-7.	284
(1875)	Defeated in House: 41-50.	293
1877	H. Repealing section. Passed House: 72-4; failed in Senate.	300
1877-81	S. Repealing section. Passed Senate: 40-1; passed House: 78-2.	295
(1879)	Passed Senate: 43-0; passed House: 95-1.	310
(1880)	Submitted to voters on Apr. 5, 1880: vote for, 177,542; vote against, 139,002; total vote cast at election, 380,771; majority of votes cast, 190,386; held neither adopted nor rejected in State <i>v.</i> Swift, 69 <i>Indiana</i> , 505.	and 318
(1881)	Resubmitted at special election on Mar. 14, 1881; vote for, 124,952, vote against, 42,896;	

DATE

DOCUMENT

total vote cast at election, 172,900; majority of votes cast, 86,451; declared in force by proclamation of governor on Mar. 24, 1881.

ART. II, SEC. 9. No person holding a lucrative office or appointment, under the United States or under this State, shall be eligible to a seat in the General Assembly; nor shall any person hold more than one lucrative office at the same time, except as in this Constitution expressly permitted: Provided, that offices in the militia to which there is attached no annual salary, and the office of Deputy Postmaster, where the compensation does not exceed ninety dollars per annum, shall not be deemed lucrative: And provided, also, that counties containing less than one thousand polls, may confer the office of Clerk, Recorder, and Auditor, or any two of said offices, upon the same person.

AMENDMENTS PROPOSED

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| 1855 | H. Authorizing militia officers and deputy postmasters to hold other offices. Defeated in House: 19-61. | 156 |
| 1859 | H. Providing that office of clerk, recorder, or auditor, or any two of them, may be held by the same person regardless of population of county. Failed in House. | 184 |

ART. II, SEC. 13. All elections by the People shall be by ballot; and all elections by the General Assembly, or by either branch thereof, shall be viva voce.

AMENDMENTS PROPOSED

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|------|---|-----|
| 1865 | S. Providing that elections by voters shall be viva voce. Failed in Senate. | 220 |
| 1873 | S. Authorizing Assembly to provide for registration of voters and numbering of ballots. Failed in Senate. | 285 |

DATE		DOCUMENT
1895-97	S. Permitting use of voting machines. Passed House: 71-5; passed Senate: 26-8.	438
(1897)	Failed in Senate.	448
1901	S. Authorizing use of voting machines. Failed in Senate.	469

ART. II, SEC. 14. All general elections shall be held on the second Tuesday in October.

AMENDMENTS PROPOSED

1872	H. Changing date of holding general elections to first Tuesday after first Monday in November. Withdrawn in House.	278
	Message of Gov. Baker. Favoring nonpartisan election of judges.	279
1873-75	H. Authorizing Assembly to fix date of holding elections. Passed House: 66-1. Amended by Senate: fixing first Tuesday after first Monday in November as date of elections. Passed Senate: 30-7; concurred in by House.	285
(1875)	Passed Senate: 44-2; failed in House.	293
1877	Message of Gov. Hendricks. Favoring first Tuesday after first Monday in November as date of general elections.	294
	S. Fixing first Tuesday after first Monday in November as date of general elections. Failed in Senate.	295
	S. Fixing date for general elections. Failed in Senate.	297
	H. Fixing first Tuesday after first Monday in November as date of general elections. Passed House: 72-5; failed in Senate.	298
1877-81	S. Fixing first Tuesday after first Monday in November as date of general elections; date of township elections to be fixed by law; election of judges at special election. Passed Senate: 39-2; passed House: 78-0.	295
(1879)	Passed Senate: 34-14; passed House: 61-34.	311
(1880)	Submitted to voters on Apr. 5, 1880: vote for, 174,000; vote against, 144,812; total vote cast at election, 380,771; majority of votes cast, 190,386; held neither adopted nor rejected in State <i>v. Swift</i> , 69 <i>Indiana</i> , 505.	and 318

DATE	DOCUMENT
(1881)	Resubmitted at special election on Mar. 14, 1881: vote for, 128,038, vote against, 40,163; total vote cast at election, 172,900; majority of votes cast, 86,451; declared in force by proclamation of governor on Mar. 24, 1881.

(1881) ART. II, SEC. 14. All general elections shall be held on the first Tuesday after the first Monday in November; but township elections may be held at such time as may be provided by law: *Provided*, That the General Assembly may provide by law for the election of all Judges of courts of general and appellate jurisdiction, by an election to be held for such officers only, at which time no other officer shall be voted for, and shall also provide for the registration of all persons entitled to vote.

AMENDMENTS PROPOSED

1913-15	S. Providing that judges may be elected at special elections. Passed Senate: 34-8; passed House: 73-2.	526
(1915)	Passed Senate: 30-7; failed in House.	533
1917	Message of Gov. Goodrich. Favoring classification of counties and cities for registration of voters.	543
1918	Rep. Platform. Advocating classification of counties for registration of voters.	570
1919	Message of Gov. Goodrich. Favoring classification of counties for registration of voters.	572
	S. Authorizing classification of counties for registration of voters. Failed in Senate.	578
	S. Authorizing Assembly to require registration of voters in cities having population of more than 25,000. Failed in Senate.	604
1919-21	S. Authorizing Assembly to classify counties, cities, townships, and towns for registration of voters. Passed Senate: 43-0; passed House: 88-0.	591

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DATE		DOCUMENT
(1921)	Passed Senate: 42-1; passed House: 79-1. Submitted to voters on Sept. 6, 1921: vote for, 90,269; vote against, 110,333; defeated.	622
1923	H. Authorizing classification of counties, townships, cities, and towns for registration of voters; prohibiting any person from registering who has not paid all taxes assessed against him. Failed in House.	650
1923-26	S. Authorizing classification of counties, townships, cities, and towns for registration of voters. Passed Senate: 37-4; passed House: 69-11.	648
(1925)	Message of Gov. Branch. Urging re-adoption of pending amendment.	659
	Passed Senate: 39-0; passed House: 75-2.	664
(1926)	Submitted to voters on Nov. 2, 1926: vote for, 198,579; vote against, 184,684; total vote cast at election, 1,052,994; majority of vote cast, 526,498; defeated.	

PROPOSED NEW SECTIONS

1903	S. Sec. 15. Prohibiting consolidation of rail-roads. Failed in Senate.	476
1911	H. Attempted amendment to M. C. Authorizing recall of public officials. Failed in House.	505
	H. Sec. 4½. Authorizing recall of public officials. Failed in House.	505
1917-19	S. Sec. 15. Conferring suffrage on native-born and naturalized women. Passed Senate: 35-2; passed House: 61-23.	557
(1919)	Rejected by Senate: 0-45; rejected by House: 12-75.	573
1919	S. Sec. 15. Requiring payment of poll tax and ability to read English language to vote. Failed in Senate.	605
1929	H. Sec. 15. Requiring registration of voters in counties having population of more than 100,000 and in cities having population of more than 15,000. Failed in House.	677.

ARTICLE IV

LEGISLATIVE³

DATE		DOCUMENT
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ART. IV, SEC. 1. The Legislative authority of the State shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives. The style of every law shall be: "Be it enacted by the General Assembly of the State of Indiana;" and no law shall be enacted, except by bill.

AMENDMENTS PROPOSED

1897	S. Providing for municipal and state initiative and referendum. Failed in Senate.	451
1899	S. Providing for municipal and state initiative and referendum. Failed in Senate.	462
1911	H. Authorizing constitutional and legislative initiative and referendum. Failed in House.	511
1916	Soc. Platform. Favoring initiative, referendum, and recall.	541
1924	Soc. Platform. Favoring initiative, referendum, and recall.	658
1928	Soc. Platform. Favoring initiative, referendum, and recall.	672

ART. IV, SEC. 2. The Senate shall not exceed fifty, nor the House of Representatives one hundred members; and they shall be chosen by the electors of the respective counties or districts, into which the State may, from time to time, be divided.

AMENDMENTS PROPOSED

1861	H. Fixing number of senators at 36 and number of representatives at 72. Failed in House.	209
1881	S. Fixing number of representatives at 60 and number of senators at 30. Defeated in Senate: 9-32.	344

³ See also Proposed Additional Articles.

DATE		DOCUMENT
1895	H. Senate to consist of 60 members, chosen from 20 senatorial districts, not more than 2 from majority party in district; House to consist of 1 member for each county having not to exceed 25,000; 2 for 25,000-50,000; 3 for 50,000-75,000; 4 for 75,000-100,000; 5 for 100,000-125,000; and 6 for 125,000-150,000. Failed in House.	441
1897	S. Fixing membership of Senate at 25 and House at 50. Failed in Senate.	452
1911	M. C. Fixing maximum membership of House at 130.	505

ART. IV, SEC. 3. Senators shall be elected for the term of four years and Representatives for the term of two years, from the day next after their general election: Provided, however, that the Senators elect, at the second meeting of the General Assembly under this Constitution, shall be divided by lot, into two equal classes, as nearly as may be; and the seats of Senators of the first class shall be vacated at the expiration of two years, and those of the second class, at the expiration of four years; so that one-half as nearly as possible, shall be chosen biennially forever thereafter. And in case of increase in the number of Senators, they shall be so annexed, by lot, to one or the other of the two classes, as to keep them as nearly equal as practicable.

AMENDMENTS PROPOSED

1857	H. Fixing terms of representatives at 1 year and senators at 3 years; providing for annual elections. Failed in House.	167
1911	M. C. Eliminating provision for division of senators into classes.	505

ART. IV, SEC. 4. The General Assembly shall, at its second session after the adoption of this Constitution, and every sixth

DATE

DOCUMENT

year thereafter, cause an enumeration to be made of all the white male inhabitants over the age of twenty-one years.

AMENDMENTS PROPOSED

1873-75	H. Requiring enumeration of negroes as well as white voters. Passed House: 69-6; passed Senate: 27-9.	284
(1875)	Defeated in House: 41-50.	293
1877	H. Basing enumeration on all male voters. Passed House: 72-3; failed in Senate.	300
1877-81	S. Basing enumeration of voters and apportionment of members of Assembly on male voters. Passed Senate: 41-1; passed House: 71-8.	295
(1879)	Passed Senate: 47-1; passed House: 89-3.	310
(1880)	Submitted to voters on Apr. 5, 1880: vote for, 176,320; vote against, 136,279; total vote cast at election, 380,771; majority of votes cast, 190,386; held neither adopted nor rejected in State <i>v. Swift</i> , 69 <i>Indiana</i> , 505.	and 318
(1881)	Resubmitted at special election on Mar. 14, 1881: vote for, 125,170; vote against, 42,162; total vote cast at election, 172,900; majority of votes cast, 86,451; declared in force by proclamation of governor on Mar. 24, 1881.	

(1881) ART. IV, SEC. 4. The General Assembly shall, at its second session after the adoption of this Constitution, and every sixth year thereafter, cause an enumeration to be made of all the male inhabitants over the age of twenty-one years.

AMENDMENTS PROPOSED

1911	M. C. Repealing section.	505
1919-21	S. Basing apportionment of senators and representatives on vote cast for secretary of state. Passed Senate: 36-0; passed House: 63-14.	611
(1921)	Passed Senate 32-3; passed House: 76-12.	623
	Submitted to voters on Sept. 6, 1921: vote for, 76,963; vote against, 117,890; defeated.	

DATE	DOCUMENT
1923-26	S. Basing apportionment of senators and representatives on vote cast for secretary of state. Passed Senate: 32-9; passed House: 53-31. 647
(1925)	Message of Gov. Branch. Urging re-adoption of pending amendment. 659
	Passed Senate: 35-1; passed House: 79-4. 663
(1926)	Submitted to voters on Nov. 2, 1926: vote for, 183,828; vote against, 189,928; defeated.

ART. IV, SEC. 5. The number of Senators and Representatives shall, at the session next following each period of making such enumeration, be fixed by law, and apportioned among the several counties, according to the number of white male inhabitants, above twenty-one years of age in each: Provided, that the first and second elections of members of the General Assembly, under this Constitution, shall be according to the apportionment last made by the General Assembly, before the adoption of this Constitution.

AMENDMENTS PROPOSED

1857	H. Providing that each county have at least one representative in Assembly. Failed in House. 171
1873-75	H. Apportionment of Assembly to be based on colored as well as white voters. Passed House: 67-9; passed Senate: 28-8. 284
(1875)	Defeated in House: 41-50. 293
1877	H. Apportionment of members of Assembly based on all male voters. Passed House: 72-2; failed in Senate. 300
1877-81	Basing enumeration of voters and apportionment of members of Assembly on male voters. Passed Senate: 41-1; passed House: 71-8. 295
(1879)	Passed Senate: 47-1; passed House: 89-3. 310
(1880)	Submitted to voters on Apr. 5, 1880: vote for, 176,320; vote against, 136,279; total vote cast at election, 380,771; majority of votes cast, 190,386; held neither adopted nor rejected in State <i>v.</i> Swift, 69 <i>Indiana</i> , 505. and 318

DATE
(1881)

DOCUMENT

Resubmitted at special election on Mar. 14, 1881: vote for, 125,170; vote against, 42,162; total vote cast at election, 172,900; majority of votes cast, 86,451; declared in force by proclamation of governor on Mar. 24, 1881.

(1881) ART. IV, SEC. 5. The number of Senators and Representatives shall, at the session next following each period of making such enumeration, be fixed by law, and apportioned among the several counties, according to the number of male inhabitants, above twenty-one years of age in each: Provided, that the first and second elections of members of the General Assembly, under this Constitution, shall be according to the apportionment last made by the General Assembly, before the adoption of this Constitution.

AMENDMENTS PROPOSED

1901	H. So apportioning senators and representatives that no voter shall vote for more than one senator and one representative. Failed in House.	471
1911	M. C. Basing apportionment of senators and representatives on United States census; restricting apportionments to one every 10 years. Providing that each county have at least one representative; basing apportionment on federal census.	505
1919-21	S. Basing apportionment of senators and representatives on vote cast for secretary of state. Passed Senate: 36-0; passed House: 63-14.	611
(1921)	Passed Senate: 32-3; passed House: 76-12. Submitted to voters on Sept. 6, 1921: vote for, 76,963; vote against, 117,890; defeated.	623
1923-26	S. Basing apportionment of senators and representatives on vote cast for secretary of state. Passed Senate: 32-9; passed House: 53-31.	647
(1925)	Message of Gov. Branch. Urging re-adoption of pending amendment. Passed Senate: 35-1; passed House: 79-4.	659 663

DATE	DOCUMENT
(1926)	Submitted to voters on Nov. 2, 1926: vote for, 183,828; vote against, 189,928; defeated.

ART. IV, SEC. 6. A Senatorial or Representative district, where more than one county shall constitute a district, shall be composed of contiguous counties; and no county for Senatorial apportionment, shall ever be divided.

AMENDMENTS PROPOSED

1889	H. Changing method of apportioning senators and representatives. Failed in House.	411
1901	H. So apportioning senators and representatives that no voter shall vote for more than one senator and one representative. Failed in House.	471
1911	M. C. Eliminating reference to representative districts.	505

ART. IV, SEC. 9. The sessions of the General Assembly shall be held biennially at the capital of the State, commencing on the Thursday next after the first Monday of January, in the year one thousand eight hundred and fifty-three, and on the same day of every second year thereafter, unless a different day or place shall have been appointed by law. But if, in the opinion of the Governor, the public welfare shall require it, he may at any time by proclamation, call a special session.

AMENDMENTS PROPOSED

1855	H. Annual unlimited sessions of Assembly. Defeated in House: 38-44.	156
1857	H. Annual unlimited sessions of Assembly and local legislation. Failed in House.	167
1861	H. Annual sessions of Assembly. Failed in House.	195
	H. Annual sessions of Assembly. Failed in House.	210
1865	H. Annual sessions of Assembly. Defeated in House: 39-48.	241

DATE	DOCUMENT
1865	S. Annual sessions of Assembly. Failed in Senate. 242
1867	S. Annual sessions of Assembly commencing on first Thursday in December. Amended: to commence on first Thursday after first Monday in January. Passed Senate: 26-15; failed in House. 248
1911	Message of Gov. Marshall. Favoring divided legislative session: December meeting to introduce and amend bills; May session for consideration and passage. 504
	M. C. Limiting regular sessions of Assembly to 100 days; special sessions, to 30 days, restricted to such subjects as governor designates in call. 505
1913	H. Providing bisected session: first meeting of 30 days; adjournment of 60 days; last meeting of 31 days. Passed House: 73-2; rejected by Senate. 526
1923	Message of Gov. McCray. Advocating meeting of Assembly at beginning of second and fourth years of governor's term. 642
	S. Fixing length of regular sessions at 61 days: session of 30 days; interval of 30 days; concluding session of 31 days. Passed Senate: 26-19; failed in House. 651
	S. Fixing meetings of Assembly biennially in even-numbered years. Failed in Senate for want of constitutional majority: 18-21. 657

ART. IV, SEC. 11. Two-thirds of each House shall constitute a quorum to do business; but a smaller number may meet, adjourn from day to day, and compel the attendance of absent members. A quorum being in attendance, if either House fail to effect an organization within the first five days thereafter, the members of the House so failing, shall be entitled to no compensation, from the end of the said five days until an organization shall have been effected.

DATE	AMENDMENTS PROPOSED	DOCUMENT
1865	H. Defining quorum as a majority of each house. Failed in House.	245
1867	H. Defining quorum as a majority of each house. Failed in House.	251
1873	H. S. Constituting a majority a quorum of each house. Defeated in House: 30-49; defeated in Senate: 15-23.	284

ART. IV, SEC. 18. Every bill shall be read, by sections, on three several days, in each House; unless in case of an emergency, two-thirds of the House where such bill may be depending, shall, by a vote of yeas and nays, deem it expedient to dispense with this rule; but the reading of a bill by sections, on its final passage, shall, in no case, be dispensed with; and the vote on the passage of every bill or joint resolution shall be taken by yeas and nays.

	AMENDMENTS PROPOSED	
1873	H. Providing that a majority be sufficient to suspend rules. Passed House: 51-33; defeated in Senate: 15-23.	284

ART. IV, SEC. 19. Every act shall embrace but one subject and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

	AMENDMENTS PROPOSED	
1911	M. C. Providing that in lieu of expressing subject of act in title, act may provide brief and comprehensive name for itself; subject shall be expressed in or fairly covered by title.	505

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ART. IV, SEC. 21. No act shall ever be revised or amended by mere reference to its title; but the act revised, or section amended, shall be set forth and published at full length.

AMENDMENTS PROPOSED

1855

H. In amending acts, only section as amended to be set forth. Failed of constitutional majority in House: 30-44. 156

ART. IV, SEC. 22. The General Assembly shall not pass local or special laws, in any of the following enumerated cases, that is to say:

Regulating the jurisdiction and duties of Justices of the Peace and of Constables;

For the punishment of crimes and misdemeanors;

Regulating the practice in courts of justice;

Providing for changing the venue in civil and criminal cases;

Granting divorces;

Changing the names of persons;

For laying out, opening and working on highways, and for the election or appointment of supervisors;

Vacating roads, town plats, streets, alleys and public squares;

Summoning and empanneling grand and petit juries, and providing for their compensation;

Regulating county and township business;

Regulating the election of county and township officers and their compensation;

For the assessment and collection of

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	taxes for State, county, township or road purposes;	
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	Providing for supporting common schools, and for the preservation of school funds;	
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	In relation to fees or salaries;	
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	In relation to interest on money;	
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	Providing for opening and conducting elections of State, county, or township officers, and designating the places of voting;	
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	Providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities, by executors, administrators, guardians, or trustees.	
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AMENDMENTS PROPOSED

1858	H. Repealing paragraph 13 prohibiting passage of local laws "providing for supporting common schools, and for the preservation of school funds." Failed in House.	176
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1877	S. Passage of local laws relative to salaries of public officials. Failed in Senate.	297
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1877-81	S. Permitting special legislation relative to fees and salaries. Passed Senate: 37-3; passed House: 79-2.	295
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(1879)	Passed Senate: 47-2; passed House: 93-1.	312
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(1880)	Submitted to voters on Apr. 5, 1880: vote for, 181,887; vote against, 136,177; total vote cast at election, 380,771; majority of votes cast, 190,386; held neither adopted nor rejected in <i>State v. Swift</i> , 69 <i>Indiana</i> , 505.	and 318
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(1881)	Resubmitted at special election on March 14, 1881: vote for, 128,731; vote against, 38,345; total vote cast at election, 172,900; majority of votes cast, 86,451; declared in force by proclamation of governor on Mar. 24, 1881.	
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(1881) ART. IV, SEC. 22. The General Assembly shall not pass local or special laws, in any of the following enumerated cases, that is to say:

Regulating the jurisdiction and duties of Justices of the Peace and of Constables;

For the punishment of crimes and misdemeanors;

Regulating the practice in courts of justice;

Providing for changing the venue in civil and criminal cases;

Granting divorces;

Changing the names of persons;

For laying out, opening and working on highways, and for the election or appointment of supervisors;

Vacating roads, town plats, streets, alleys and public squares;

Summoning and empanneling grand and petit juries, and providing for their compensation;

Regulating county and township business;

Regulating the election of county and township officers and their compensation;

For the assessment and collection of taxes for State, county, township or road purposes;

Providing for supporting common schools, and for the preservation of school funds;

In relation to fees or salaries: except that the laws may be so made as to grade the compensation of officers in proportion to the population and the necessary services required;

In relation to interest on money;

Providing for opening and conducting elections of State, county, or township officers, and designating the places of voting;

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Providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities, by executors, administrators, guardians, or trustees.

AMENDMENTS PROPOSED⁴

1895	H. Prohibiting passage of local acts to reimburse county, township, or municipal officers who have lost public funds in their possession or to relieve them from liability upon their official bonds. Passed House: 64-8. Failed in Senate.	442
1911	M. C. Authorizing Assembly to adopt special charters for cities.	505
1913-15	S. Authorizing Assembly to adopt special charters for cities. Passed Senate: 34-8; passed House: 73-2.	526
(1915)	Defeated in Senate: 17-23.	533
1924	Soc. Platform. Favoring home rule for cities.	658
1928	Soc. Platform. Favoring home rule for cities.	672

ART. IV, SEC. 23. In all the cases enumerated in the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State.

AMENDMENTS PROPOSED

1855	H. Authorizing passage of local laws. Failed in House.	156
1861-63	S. Authorizing Assembly to enable cities, towns, and townships to levy taxes to support common schools without requiring uniform rate. Passed Senate: 35-4; passed House: 70-16.	203
(1863)	Passed Senate: 36-7. Failed in House.	212
1865	S. Authorizing cities, towns, and townships to levy taxes for support of common schools. Passed Senate: 46-0; failed in House.	224
	H. Authorizing cities, towns, townships, and school districts to levy taxes for support of common schools. Failed in House.	225
		243

⁴ See also Proposed Additional Articles.

DATE	DOCUMENT
1877	S. Passage of local laws relative to salaries of public officials. Failed in Senate. 297
1885	H. Allowing legislature to prohibit traffic in intoxicating liquor by general law or in specified portions of state. Failed in House. 380

ART. IV, SEC. 25. A majority of all the members elected to each House, shall be necessary to pass every bill or joint resolution; and all bills and joint resolutions so passed, shall be signed by the Presiding Officers of the respective Houses.

AMENDMENTS PROPOSED

1873	H. Requiring two-thirds vote to pass bills apportioning members of Assembly. Defeated in House: 26-45. 284
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ART. IV, SEC. 28. No act shall take effect, until the same shall have been published and circulated in the several counties of the State by authority, except in case of emergency; which emergency shall be declared in the preamble or in the body of the law.

AMENDMENTS PROPOSED

1855	H. Prescribing time when acts shall take effect. Failed in House. 156
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ART. IV, SEC. 29. The members of the General Assembly shall receive for their services, a compensation to be fixed by law; but no increase of compensation shall take effect during the session at which such increase may be made. No session of the General Assembly, except the first under this Constitution, shall extend beyond the term of sixty-one days, nor any special session beyond the term of forty days.

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DATE	AMENDMENTS PROPOSED	DOCUMENT
1855	H. Removing limitation on legislative sessions. Failed in House.	156
1857	H. Limiting sessions of Assembly to 40 days. Failed in House.	167
1867	S. Authorizing unlimited sessions of Assembly, members to serve without compensation after first 90 days of regular, and first 40 days of special sessions. Amended: to serve without compensation after the first 61 days of regular, and first 40 days of special sessions. Passed by Senate: 25-15; failed in House.	248
1873	H. Fixing limit of regular sessions at 100 days. Defeated in House: 23-49.	284
1877-79	S. Fixing duration of regular sessions at 121 days and special sessions at 60 days. Passed Senate: 33-11; passed House: 55-19.	295
(1879)	Passed Senate: 44-5; defeated in House: 23-70.	316 318
1881	S. Fixing length of regular sessions at 100 days and special sessions at 30 days. Passed Senate: 34-8; failed in House.	345
1885	H. Fixing length of regular sessions at 100 days and special sessions at 50 days. Passed House: 68-11. Attempted Senate Amendments: fixing annual compensation of legislators at \$500, \$300, \$400, and \$450. Failed in Senate.	381
	Message of Gov. Gray. Approving restricted legislative sessions.	390
1889-91	H. Authorizing unlimited sessions of Assembly. Passed House: 78-2; passed Senate: 44-1.	408
(1891)	Defeated in House: 1-74.	417
1891-93	H. Fixing term of regular sessions at 100 days. Passed House: 75-0; passed Senate: 41-1.	424
(1893)	Passed House: 53-40; defeated in Senate: 19-20.	431
1899	S. Fixing duration of regular sessions at 120 days; no business to be considered at special sessions except that specified by governor in call. Failed in Senate.	461
1907	S. Fixing regular sessions at 100 days. Passed Senate: 34-0; failed in House.	490
1911	M. C. Eliminating provision relative to length of regular and special sessions.	505

DATE	DOCUMENT
PROPOSED NEW SECTIONS	
1911	H. Sec. 31. Authorizing Assembly to provide for compulsory workmen's compensation. Failed in House. 512
1915	H. Sec. 31. Providing for filling vacancies in Assembly as prescribed by law. Failed in House. 535
1917	Message of Gov. Goodrich. Favoring establishment of executive state budget. 543
1918	Rep. Platform. Favoring establishment of executive state budget. 570
1919	Message of Gov. Goodrich. Favoring establishment of executive state budget. 572
	S. Sec. 31. Authorizing executive state budget. Failed in Senate. 581
1919-21	S. Sec. 31. Establishing executive state budget. Passed Senate: 30-13; passed House: 75-16. 594
(1921)	Failed in Senate. 624

ARTICLE V

EXECUTIVE

ART. V, SEC. 14. Every bill which shall have passed the General Assembly, shall be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it, with his objections, to the House in which it shall have originated; which House shall enter the objections, at large, upon its journals, and proceed to reconsider the bill. If, after such reconsideration, a majority of all the members elected to that House shall agree to pass the bill, it shall be sent, with the Governor's objections, to the other House, by which it shall likewise be reconsidered; and, if approved by a majority of all the members elected to that House, it shall be a law. If any bill shall not be returned by the

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Governor within three days, Sundays excepted, after it shall have been presented to him, it shall be a law, without his signature, unless the general adjournment shall prevent its return; in which case it shall be a law, unless the Governor, within five days next after such adjournment, shall file such bill, with his objections thereto, in the office of Secretary of State; who shall lay the same before the General Assembly at its next session, in like manner as if it had been returned by the Governor. But no bill shall be presented to the governor, within two days next previous to the final adjournment of the General Assembly.

AMENDMENTS PROPOSED

1885	S. Authorizing governor to veto items in appropriation bills. Failed in Senate.	384
1911	M. C. Requiring three-fifths vote to override governor's veto; prohibiting presentation of bills to governor without his consent within 3 days prior to final adjournment; authorizing governor to veto items in appropriation bills.	505
1913-15	S. Prohibiting presentation of bills to governor without his consent within 3 days prior to final adjournment; authorizing veto of items in appropriation bills. Passed Senate: 34-8; passed House: 73-2.	526
(1915)	Message of Gov. Ralston. Favoring above amendment.	532
	Passed Senate: 30-10; failed in House.	533
1916	Rep. Platform. Favoring authorizing governor to veto items in appropriation bills.	537
1917	Message of Gov. Goodrich. Favoring authorizing governor to veto items in appropriation bills.	543
1918	Rep. Platform. Favoring authorizing governor to veto items in appropriation bills.	570
1919	Message of Gov. Goodrich. Favoring authorizing governor to veto items in appropriation bills.	572

DATE		DOCUMENT
	S. Authorizing governor to veto items in ap- propriation bills. Failed in Senate.	580
	S. Requiring three-fifths vote to pass bill over governor's veto. Failed in Senate.	607
1919-21	S. Authorizing governor to veto items in ap- propriation bills. Passed Senate: 30-12; passed House: 60-14.	593
(1921)	Passed Senate: 36-8; passed House: 83-1. Submitted to voters on Sept. 6, 1921: vote for, 83,265; vote against, 101,790; defeated.	625
1923	S. Authorizing governor to veto items in ap- propriation bills. Passed Senate: 26-19; failed in House.	645
	H. Requiring two-thirds vote to override governor's veto; authorizing governor to veto items in appropriation bills. Failed in House.	656

ART. V, SEC. 19. He shall issue writs
of election to fill such vacancies as may
have occurred in the General Assembly.

AMENDMENTS PROPOSED

1915	H. Repealing section. Failed in House.	535
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ARTICLE VI

ADMINISTRATIVE

ART. VI, SEC. 1. There shall be elected,
by the voters of the State, a Secretary, and
Auditor and a Treasurer of State, who
shall, severally, hold their offices for two
years. They shall perform such duties as
may be enjoined by law; and no person
shall be eligible to either of said offices,
more than four years in any period of
six years.

AMENDMENTS PROPOSED

1881	Message of Gov. Gray. Favoring fixing terms of secretary, auditor, and treasurer of state at 4 years, election to be held between presidential years.	333 347
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360 INDIANA HISTORICAL COLLECTIONS

DATE		DOCUMENT
1881	H. Fixing terms of state officers at 4 years. Passed House: 58-16; failed in Senate.	335
1881-83	S. Fixing terms of secretary, auditor, and treasurer of state at 4 years. Passed Senate: 38-5; passed House: 56-12.	333
1882	Rep. Platform. Favoring adoption and submission of pending amendment.	355
(1883)	Passed House: 56-39; failed in Senate.	366
1885	H. Fixing terms of secretary, auditor, and treasurer of state at 4 years; to be ineligible to succeed themselves. Passed House: 76-6; failed in Senate.	377
1889	Message of Gov. Gray. Approving fixing of terms of secretary, auditor, and treasurer of state at 4 years, beginning on Apr. 1 after election; election to be held between presidential elections.	400
	H. Fixing terms of secretary, auditor, treasurer of state, attorney-general, and superintendent of public instruction at 4 years; all to be ineligible to succeed themselves. Failed in House.	406
	S. Fixing terms of secretary, auditor, treasurer of state, and attorney-general at 4 years; elective in presidential years; terms to begin on first Monday in January after election; to be ineligible to succeed themselves. Failed in Senate.	406
	S. Fixing terms of state officers at 4 years. Failed in Senate.	406
	S. Fixing terms of state officers at 4 years. Failed in Senate.	406
1889-91	H. Fixing terms of secretary, auditor, treasurer of state, and attorney-general at 4 years; elective in presidential years; terms to commence on first Monday in January after election; all to be ineligible to succeed themselves. Passed House: 82-0; passed Senate: 43-0.	406
(1890)	Rep. Platform. Approving amendment fixing terms of state officers at 4 years.	414
(1891)	Defeated in House: 1-74.	417
1891-93	H. Fixing terms of secretary, auditor, and treasurer of state at 4 years; to be ineligible to succeed themselves. Passed House: 75-0; passed Senate: 41-1.	423
(1893)	Defeated in House: 8-80; failed in Senate.	433

DATE	DOCUMENT
1895	H. Fixing terms of secretary, auditor, treasurer of state, attorney-general, and state superintendent of public instruction at 4 years; all to be ineligible to succeed themselves. Failed in House. 443
1911	Message of Gov. Marshall. Favoring 4-year terms, officers to be ineligible to succeed themselves. 504
	M. C. Making attorney-general and reporter of Supreme Court constitutional officers; fixing terms of all elective state officers except judges at 4 years; all to be ineligible to succeed themselves. 505
1913-15	S. Making attorney-general and reporter of Supreme Court constitutional officers; fixing terms of all elective state officers except judges at 4 years; all to be ineligible to succeed themselves. Passed Senate: 34-8; passed House: 73-2. 526
(1915)	Defeated in Senate: 9-31. 533
1917	S. Fixing terms of all state officers, except judges, at 4 years. Passed Senate: 36-0; failed in House. 546
1919	S. Fixing terms of state officers at 4 years. Failed in Senate. 582
1919-21	S. Fixing terms of state officers at 4 years. Passed Senate: 43-0; passed House: 77-0. 595
(1921)	Passed Senate: 35-0; passed House: 69-10. 626
	Submitted to voters on Sept. 6, 1921: vote for, 74,177; vote against, 113,300; defeated.

ART. VI, SEC. 2. There shall be elected, in each county by the voters thereof, at the time of holding general elections, a Clerk of the Circuit Court, Auditor, Recorder, Treasurer, Sheriff, Coroner, and Surveyor. The Clerk, Auditor and Recorder, shall continue in office four years; and no person shall be eligible to the office of Clerk, Recorder, or Auditor, more than eight years in any period of twelve years. The Treasurer, Sheriff, Coroner, and Surveyor, shall continue in office two years;

DATE		DOCUMENT
	and no person shall be eligible to the office of Treasurer or Sheriff, more than four years in any period of six years.	
AMENDMENTS PROPOSED		
1859	H. Repealing section. Failed in House.	184
1877	S. Fixing terms of clerk, auditor, treasurer, and sheriff at 4 years and making them ineligible to succeed themselves. Failed in Senate.	295
1881	Message of Gov. Gray. Favoring fixing terms of county officers at 4 years.	333 347
	H. Fixing terms of county officers at 4 years. Passed House: 58-16; failed in Senate.	335
1881-83	S. Fixing terms of county officers at 4 years; to be ineligible to succeed themselves. Passed Senate: 40-4; passed House: 57-10.	334
(1882)	Rep. Platform. Favoring adoption and submission of pending amendment.	355
(1883)	Passed House: 53-41; failed in Senate.	367
1885-87	H. Fixing terms of county officers at 4 years from Jan. 1 following election; all such officers, except surveyor, to be ineligible to succeed themselves. Passed House: 81-8; passed Senate: 32-2.	374
(1886)	Dem. Platform. Approving pending amendment.	391
	Rep. Platform. Approving pending amendment.	392
(1887)	Passed by Senate: 29-12; not sent to House. Passed by House: 91-0; not sent to Senate.	393
1888	Rep. Platform. Indorsing amendment fixing terms of county officers at 4 years.	399
1889	Message of Gov. Gray. Approving fixing of terms of county officers at 4 years from Jan. 1 after election.	400
	H. Fixing terms of county officers at 4 years from Jan. 1 following election; all except surveyor to be ineligible to succeed themselves. Failed in House.	404
	S. Fixing terms of county officers at 4 years from Jan. 1 following election; all except surveyor to be ineligible to succeed themselves. Failed in Senate.	404
	S. Fixing terms of county officers at 4 years from Jan. 1 following election; all except sur-	404

DATE	DOCUMENT
	veyor to be ineligible to succeed themselves; election in nonpresidential years. Failed in Senate.
1889-91	H. Fixing terms of county officers at 4 years, from first Monday in January following election; all except surveyor to be ineligible to succeed themselves; election in nonpresidential years. Passed House: 80-0; passed Senate: 44-0. 404
(1890)	Rep. Platform. Approving amendment fixing terms of county officers at 4 years. 414
(1891)	Defeated in House: 1-74. 417
1891-93	H. Fixing terms of county officers at 4 years from Jan. 1 after election; all to be ineligible to succeed themselves. Passed House: 75-0; passed Senate: 41-1. 422
(1893)	Defeated in House: 8-86; failed in Senate. 432
1895	H. Fixing terms of county officers at 4 years; to be ineligible to succeed themselves. Failed in House. 443
1897	H. Fixing terms of treasurer and sheriff at 4 years; clerk, auditor, recorder, treasurer, and sheriff to be ineligible to succeed themselves. Failed in House. 453
1899	S. Fixing terms of county officers at 4 years; to be ineligible to succeed themselves. Failed in Senate. 458
	H. Fixing terms of county officers at 4 years; to be ineligible to succeed themselves. Withdrawn in House. 458
1901	S. Fixing terms of county officers at 4 years; to be ineligible to succeed themselves. Failed in Senate. 468
1903	H. Fixing terms of county officers at 4 years; to be ineligible to succeed themselves. Failed in House. 477
1911	Message of Gov. Marshall. Favoring four year terms for state and county officers; to be ineligible to succeed themselves. 504
	M. C. Fixing terms of all county officers at 4 years; all to be ineligible to succeed themselves. 505
1913-15	S. Fixing terms of all county officers at 4 years; all to be ineligible to succeed themselves. Passed Senate: 34-8; passed House: 73-2. 526
(1915)	Defeated in Senate: 20-25. 533

DATE		DOCUMENT
1917	S. Fixing terms of county officers at 4 years, and eliminating surveyor as constitutional officer. Passed Senate: 34-1; failed in House.	547
1919	S. Fixing terms of county officers at 4 years. Failed in Senate.	583
1919-21	S. Fixing terms of county officers at 4 years; eliminating county surveyor as constitutional officer. Passed Senate: 33-11; passed House: 89-1.	596
(1921)	Passed Senate: 32-10; passed House: 53-24. Submitted to voters on Sept. 6, 1921: vote for, 82,389; vote against, 115,139; defeated.	627
1923	H. Authorizing Assembly to create such county offices as may be deemed necessary. Failed in House.	649
	H. Fixing terms of county officers at 4 years. Failed in House.	655

ART. VI, SEC. 3. Such other county and township officers as may be necessary, shall be elected, or appointed, in such manner as may be prescribed by law.

AMENDMENTS PROPOSED

1913-15	S. Fixing terms of all county and township officers at 4 years; to be ineligible to succeed themselves. Passed Senate: 34-8; passed House: 73-2.	526
(1915)	Defeated in Senate: 2-42.	533

ART. VI, SEC. 8. All State, county, township, and town officers, may be impeached, or removed from office, in such manner as may be prescribed by law.

AMENDMENTS PROPOSED

1919	S. Providing for impeachment and removal of prosecuting attorneys. Failed in Senate.	609
1923	H. Providing for impeachment and removal of prosecuting attorneys. Failed in House.	652

PROPOSED NEW SECTIONS

1903	H. Salary of no public office to be so increased or diminished as to affect incumbent or officer-elect.	477
1919	H. Sec. 11. Providing for appointment of attorney-general. Failed in House.	610

ARTICLE VII

JUDICIAL

DATE	DOCUMENT
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ART. VII, SEC. 1. The Judicial power of the State shall be vested in a Supreme Court, in Circuit Courts, and in such inferior Courts as the General Assembly may establish.

AMENDMENTS PROPOSED

1877-81	S. Authorizing Assembly to create local courts. Passed Senate: 38-2; passed House: 69-9.	295
(1879)	Passed Senate: 46-2; passed House: 66-29.	313
(1880)	Submitted to voters on Apr. 5, 1880: vote for, 175,612; vote against, 141,296; total vote cast at election, 380,771; majority of votes cast, 190,386; held neither adopted nor rejected in State v. Swift, 69 <i>Indiana</i> , 505.	and 318
(1881)	Resubmitted at special election on Mar. 14, 1881: vote for, 116,570; vote against, 41,434; total vote cast at election, 172,900; majority of votes cast, 86,451; declared in force by proclamation of governor on Mar. 24, 1881.	

(1881) ART. VII, SEC. 1. The judicial powers of the State shall be vested in a Supreme Court, circuit courts, and such other courts as the General Assembly may establish.

AMENDMENTS PROPOSED

1893	H. Relative to organization of courts. Failed in House.	435
1903	S. Vesting judicial power in Supreme Court, circuit courts, and such inferior courts as Assembly may establish. Failed in Senate.	475
1913-15	S. Authorizing Assembly to create courts of special, general, or appellate jurisdiction. Passed Senate: 34-8; passed House: 73-2.	526
(1915)	Passed Senate: 29-16; failed in House.	533

ART. VII, SEC. 2. The Supreme Court shall consist of not less than three, nor more than five Judges; a majority of

DATE		DOCUMENT
	whom shall form a quorum. They shall hold their offices for six years, if they so long behave well.	
	AMENDMENTS PROPOSED	
1873-75	H. Fixing number of judges at not less than 5 nor more than 7, so apportioned that a third shall be elected biennially. Passed House: 66-12. Attempted Senate Amendment: abolishing Supreme Court. Passed Senate: 30-7.	284
(1875)	Defeated in House: 41-50.	293
1877-79	S. Fixing number of judges at not less than 5 nor more than 7, so apportioned that a third are elected biennially. Passed Senate: 41-3; passed House: 63-14.	295
(1879)	Passed Senate: 41-7; defeated in House: 26-69.	314 318
1881	S. Fixing number of judges at not less than 5 nor more than 7. Attempted Amendment: authorizing Assembly to fix number of judges; fixing maximum number of judges at 9. Passed Senate: 33-7; never reported to House.	342
1885	H. Fixing number of judges at not less than 3 nor more than 9. Withdrawn in House.	382
	H. Fixing number of judges at not less than 6 nor more than 9; dividing state into 3 districts; permitting court to sit in benches. Passed House: 68-10; failed in Senate.	382
	S. Fixing number of judges at not less than 5 nor more than 7; authorizing such apportionment that equal number shall be elected biennially. Failed in Senate.	383
1887	H. Fixing number of judges at not less than 6 nor more than 9. Failed in House.	395
1889	S. Fixing maximum number of judges at 11. Failed in Senate.	409
	S. Fixing number of judges at not less than 5 nor more than 9, so apportioned that a third of members shall be elected biennially. Failed in Senate.	409
	H. Fixing number of judges at not less than 5 nor more than 9, so apportioned that a third of members shall be elected biennially. Failed in House.	409

DATE	DOCUMENT
	H. Fixing number of judges at 10 with terms of 7 years; authorizing Assembly to increase number; chief justice, to be selected annually by a majority of court, authorized to divide court into sections to transact business. Failed in House. 409
	S. Fixing number of judges at not less than 5 nor more than 9; terms of 8 years, so apportioned that half members shall be elected every 4 years; authorizing Assembly to provide that court may sit in divisions or <i>en banc</i> ; also, manner of conducting business. Failed in Senate. 409
	S. Increasing number of judges to 13, 15, 17, or 19. Failed in Senate. 409
1889-91	H. Fixing number of judges at not less than 5 nor more than 9; terms of 8 years, so apportioned that half members shall be elected every 4 years; authorizing Assembly to provide that court may sit in divisions or <i>en banc</i> ; also, manner of conducting business. Passed House: 56-23; passed Senate: 43-0. 409
(1891)	Defeated in House: 1-74. 417
1891	S. Increasing maximum number of judges to 11. Failed in Senate. 425
1895-97	S. Fixing number of judges at not less than 9 nor more than 15. Amended: number to be 7, 10, 13, or 16; authorized to sit in division or <i>en banc</i> ; court to elect chief justice for each term; judges to be rotated in divisions; chief justice to be member of each division; constitutionality of acts to be determined <i>en banc</i> . Passed Senate: 37-3; passed House: 70-2. 437
(1897)	Defeated in Senate: 22-24. 447
1897-1900	S. Fixing number of members at not less than 5 nor more than 11. Passed Senate: 37-1; passed House: 57-32. 449
(1899)	Passed Senate: 34-1; passed House: 83-7. 454
(1900)	Submitted to voters at general election of Nov. 6, 1900: vote for, 314,710; vote against, 178,960; total vote cast at election, 664,094; majority of vote cast, 332,048; held not ratified <i>In re Denny</i> , 156 <i>Indiana</i> , 104.
1901-03	H. Fixing number of judges at not less than 5 nor more than 11. Passed Senate: 27-15; passed House: 51-19. 466

DATE	DOCUMENT
(1903)	No action.
1903	S. Fixing terms of judges at 12 years. 475 Failed in Senate.
1905	H. Fixing number of judges at 5; increasing 484 terms to 12 years. Failed in House.
1907	S. Fixing membership of court at 5 to 11. 489 Passed Senate: 40-4; failed in House.
1911	M. C. Fixing membership of court at not less 505 than 5 nor more than 11.
1913-15	S. Fixing membership of court at not less 526 than 3 nor more than 12; terms at 6 to 12 years; authorizing court to sit in divisions. Passed Senate: 34-8; passed House: 73-2.
(1915)	Passed Senate: 30-15; failed in House. 533
1917	S. Fixing maximum number of judges at 13; 548 terms at 6 to 12 years; authorizing court to sit in divisions or <i>en banc</i> . Passed Senate: 40-0; failed in House.
1919	S. Fixing maximum membership of court at 586 13; enabling court to sit in divisions or <i>en banc</i> ; authorizing Assembly to fix terms at not to ex- ceed 12 years. Failed in Senate.
	S. Fixing maximum number of judges at 13; 599 enabling court to sit in divisions or <i>en banc</i> ; authorizing Assembly to fix terms of judges at not to exceed 12 years. Passed Senate: 37-10; defeated in House: 34-61.
1927	S. Fixing number of judges at 9-15; terms at 668 10 years; authorizing court to sit in divisions or <i>en banc</i> . Passed Senate: 26-17; defeated in House: 33-52.

ART. VII, SEC. 3. The State shall be divided into as many districts as there are Judges of the Supreme Court; and such districts shall be formed of contiguous territory, as nearly equal in population, as, without dividing a county, the same can be made. One of said Judges shall be elected from each district, and reside therein; but said Judges shall be elected by the electors of the State at large.

DATE	AMENDMENTS PROPOSED	DOCUMENT
1885	H. Fixing number of judges at not less than 6 nor more than 9; dividing state into 3 districts; permitting court to sit in benches. Passed House: 68-10; failed in Senate.	382
1887	H. Fixing number judges at not less than 6 nor more than 9. Failed in House.	395
1889	H. Dividing state into as many districts as there are judges. Failed in House.	409

ART. VII, SEC. 5. The Supreme Court shall, upon the decision of every case, give a statement in writing of each question arising in the record of such case, and the decision of the Court thereon.

	AMENDMENTS PROPOSED	
1889	S. Authorizing Assembly to provide that court may sit in divisions or <i>en banc</i> ; also, manner of conducting business. Failed in Senate.	409
	H. Requiring written decisions. Failed in House.	409
1889-91	H. Fixing number of judges at not less than 5 nor more than 9; terms of 8 years, so apportioned that half members shall be elected every 4 years; authorizing Assembly to provide that court may sit in divisions or <i>en banc</i> ; also manner of conducting business. Passed House: 56-23; passed Senate: 43-0.	409
(1891)	Defeated in House: 1-74.	417

ART. VII, SEC. 6. The General Assembly shall provide, by law, for the speedy publication of the decisions of the Supreme Court, made under this Constitution; but no judge shall be allowed to report such decisions.

	AMENDMENTS PROPOSED	
1885	H. Concerning Supreme Court reports. Failed in House.	388
1889	H. Authorizing court to designate what opinions shall be printed. Failed in House.	409

DATE	DOCUMENT
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ART. VII, SEC. 7. There shall be elected by the voters of the State, a Clerk of the Supreme Court, who shall hold his office four years, and whose duties shall be prescribed by law.

AMENDMENTS PROPOSED

1889	S. Providing that clerk shall not be eligible to succeed himself. Failed in Senate.	405
	H. Providing that clerk shall not be eligible to succeed himself. Failed in House.	405
1889-91	H. Providing that term of clerk shall begin on first Monday in January succeeding election; clerk to be ineligible to succeed himself; election to be in presidential years. Passed House: 85-0; passed Senate: 43-0.	405
(1891)	Defeated in House: 1-74.	417
1918	Rep. Platform. Favoring appointment of clerk by Supreme and Appellate courts.	570
1919	Message of Gov. Goodrich. Favoring appointment of clerk.	572
	S. Authorizing appointment of clerk by Supreme Court. Failed in Senate.	576
1919-21	S. Authorizing appointment of clerk. Passed Senate: 31-11; passed House: 52-20.	589
(1921)	Defeated in Senate: 11-30.	628

ART. VII, SEC. 8. The Circuit Courts shall each consist of one Judge and shall have such civil and criminal jurisdiction as may be prescribed by law.

AMENDMENTS PROPOSED

1903	S. Permitting election of one or more circuit judges in each circuit; to hold office 12 years. Failed in Senate.	475
1913-15	S. Authorizing Assembly to create more than one circuit court in county. Passed Senate: 34-8; passed House: 73-2.	526
(1915)	Passed Senate: 26-16; failed in House.	533

DATE

DOCUMENT

ART. VII, SEC. 9. The State shall, from time to time, be divided into judicial circuits; and a judge for each circuit shall be elected by the voters thereof. He shall reside within the circuit, and shall hold his office for the term of six years, if he so long behave well.

AMENDMENTS PROPOSED

1905 H. Fixing terms of all judges except of Supreme Court at 6 to 12 years. Failed in House. 484

ART. VII, SEC. 11. There shall be elected, in each judicial circuit, by the voters thereof, a Prosecuting Attorney, who shall hold his office for two years.

AMENDMENTS PROPOSED

1881 H. Providing for election of prosecuting attorney for each county for term of 4 years. Failed in House. 343

1889 S. Fixing term at 4 years. Failed in Senate. 404

1893 S. Fixing term at 4 years, from first Monday in January following election; to be ineligible to succeed himself. Failed in Senate. 434

1903 S. Repealing section. Failed in Senate. 475

1911 M. C. Fixing term at 4 years; to be ineligible to succeed himself. 505

1913-15 S. Fixing term at 4 years; to be ineligible to succeed himself. Passed Senate: 34-8; passed House: 73-2. 526

(1915) Defeated in Senate: 11-27. 533

1917 S. Fixing term at 4 years. Passed Senate: 34-1; failed in House. 550

1919 S. Fixing term at 4 years. Failed in Senate. 584

1919-21 S. Fixing term at 4 years. Passed Senate: 32-11; passed House: 87-1. 597

(1921) Passed Senate: 39-3; passed House: 76-6. 629

Submitted to voters on Sept. 6, 1921: vote for, 76,589; vote against, 116,683; defeated.

DATE		DOCUMENT
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ART. VII, SEC. 14. A competent number of Justices of the Peace shall be elected, by the voters in each township in the several counties. They shall continue in office four years, and their powers and duties shall be prescribed by law.

AMENDMENTS PROPOSED

1903	S. Repealing section. Failed in Senate.	475
1919	S. Repealing section. Passed Senate: 28-10; failed in House.	612

ART. VII, SEC. 15. All judicial officers shall be conservators of the peace in their respective jurisdictions.

AMENDMENTS PROPOSED

1903	S. Repealing section. Failed in Senate.	475
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ART. VII, SEC. 17. The General Assembly may modify, or abolish, the Grand Jury system.

AMENDMENTS PROPOSED

1903	S. Repealing section. Failed in Senate.	475
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ART. VII, SEC. 19. Tribunals of conciliation may be established, with such powers and duties as shall be prescribed by law; or the powers and duties of the same may be conferred upon other Courts of Justice; but such tribunals or other Courts, when sitting as such, shall have no power to render judgment to be obligatory on the parties, unless they voluntarily submit their matters of difference, and agree to abide the judgment of such tribunal or Court.

AMENDMENTS PROPOSED

1903	S. Repealing section. Failed in Senate.	475
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DATE

DOCUMENT

ART. VII, SEC. 20. The General Assembly, at its first session after the adoption of this Constitution, shall provide for the appointment of three Commissioners, whose duty it shall be to revise, simplify, and abridge, the rules, practice, pleadings, and forms, of the Courts of justice. And they shall provide for abolishing the distinct forms of action at law, now in use; and that justice shall be administered in a uniform mode of pleading, without distinction between law and equity. And the General Assembly may, also, make it the duty of said Commissioners to reduce into a systematic code, the general statute law of the State; and said Commissioners shall report the result of their labors to the General Assembly, with such recommendations and suggestions, as to abridgement and amendment, as to said Commissioners may seem necessary or proper. Provision shall be made, by law, for filling vacancies, regulating the tenure of office, and the compensation of said Commissioners.

AMENDMENTS PROPOSED

1885	S. Repealing section. Failed in Senate.	387
1903	S. Repealing section. Failed in Senate.	475
1911	M. C. Repealing section; authorizing Assembly to provide, from time to time, for codification of laws; empowering Assembly, on petition of twenty-five per cent of electors, to adopt laws providing for initiative, referendum, and recall, but prohibiting passage of laws for recall of judiciary.	505
1913	S. Repealing section; authorizing Assembly to provide, from time to time, for codification of laws; empowering Assembly, on petition of fifty per cent of electors, to adopt laws provid-	526

DATE	DOCUMENT
	ing for initiative, referendum, and recall; prohibiting passage of laws for recall of the judiciary. Failed in Senate.
1913-15	S. Repealing section; authorizing Assembly to provide, from time to time, for codification of laws; empowering Assembly to adopt laws providing for initiative, referendum, and recall; prohibiting passage of laws for recall of judges; providing for impeachment of all officers, including judges. Passed Senate: 34-8; passed House: 73-2. 526
(1915)	Passed Senate: 31-11; failed in House. 533
ART. VII, SEC. 21. Every person of good moral character, being a voter, shall be entitled to admission to practice law in all Courts of justice.	
AMENDMENTS PROPOSED	
1881	S. Prescribing qualifications for practice of law. Failed in Senate. 341
1885	S. Repealing section. Failed in Senate. 386
1889-91	H. Prescribing qualifications. Passed House: 76-5; passed Senate: 43-0. 402
(1891)	Defeated in House: 1-74. 417
1897-1900	S. Authorizing Assembly to prescribe qualifications. Passed Senate: 38-3; passed House: 51-38. 450
(1899)	Passed Senate: 35-2; passed House: 70-9. 455
(1900)	Submitted to voters at general election of Nov. 6, 1900: vote for, 240,031; vote against, 144,072; total vote cast at election, 664,094; majority of vote cast, 332,048; held not ratified <i>In re Denny</i> , 156 <i>Indiana</i> , 104.
1901-03	S. Authorizing Assembly to prescribe qualifications. Passed Senate: 41-4; passed House: 69-3. 467
(1903)	No action.
1903	S. Authorizing Supreme Court to prescribe necessary learning and qualifications for practice of law. Passed Senate: 28-6; failed in House. 474
	S. Repealing section. Failed in Senate. 475
1903-06	H. Authorizing Assembly to prescribe qualifications. Passed House: 58-30; passed Senate: 33-2. 474
(1905)	Passed House: 51-24; passed Senate: 34-0. 481

APPENDIX

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DATE	DOCUMENT
(1906)	Submitted to voters at general election of Nov. 6, 1906: vote for, 39,061; vote against, 12,128; total vote cast at election, 589,044; majority of votes cast at election, 294,522; defeated.
(1906)	Rep. Platform. Approving lawyers' amendment. 486
1907-10	S. Authorizing Assembly to prescribe qualifications. Passed Senate: 42-2; passed House: 52-22. 487
(1909)	Passed Senate: 44-0; passed House: 74-16. 499
(1910)	Submitted to voters at general election of Nov. 8, 1910: vote for, 60,357; vote against, 18,494; total vote cast at election, 627,133; majority of vote cast at election, 313,567; defeated.
1911	M. C. Authorizing Assembly to prescribe qualifications. 505
1913-15	S. Authorizing Assembly to prescribe qualifications. Passed Senate: 34-8; passed House: 73-2. 526
(1915)	Passed Senate: 27-17; failed in House. 533
1916	Prog. Platform. Favoring qualification requirement for practice of law. 539
1917	S. Authorizing Assembly to prescribe qualifications. Passed Senate: 34-1; failed in House. 549
1919	S. Authorizing Assembly to prescribe qualifications. Failed in Senate. 585
1919-21	S. Authorizing Assembly to prescribe qualifications. Passed Senate: 44-0; passed House: 93-2. 598
(1921)	Passed Senate: 40-0; passed House: 78-3. 630
	Submitted to voters on Sept. 6, 1921: vote for, 78,431; vote against, 117,479; defeated.
1927-29	S. Repealing section. Passed Senate: 41-0; passed House: 69-4. 670
(1929)	Passed Senate: 41-0; passed House: 83-0. 674
	Pending action of Assembly of 1931.
PROPOSED NEW SECTIONS	
1873-75	S. Sec. 22. Allowing election of judges at special election. Passed by Senate: 30-7; concurred in by House. 284
(1875)	Defeated in House: 41-50. 293
1919	S. Sec. 22. Authorizing Supreme Court to give <i>ex parte</i> opinions on constitutionality of bills pending in Assembly. Passed Senate: 32-10; failed in House. 606

ARTICLE VIII

EDUCATION

DATE	DOCUMENT
<p>ART. VIII, SEC. 1. Knowledge and learning, generally diffused throughout a community, being essential to the preservation of a free government; it shall be the duty of the General Assembly to encourage, by all suitable means, moral, intellectual, scientific, and agricultural improvement; and to provide, by law, for a general and uniform system of Common Schools, wherein tuition shall be without charge, and equally open to all.</p>	
AMENDMENTS PROPOSED ⁵	
1855	H. Changing method of supporting common schools. Failed in House. 156
1858	H. Permitting local taxation for support of common schools. Failed in House. 176
	H. Authorizing cities, towns, and townships to levy taxes for school purposes. Committee Report: authorizing cities and towns to levy such taxes. Failed in House. 177
1859	S. Authorizing local taxation for support of common schools. Failed in Senate. 188
1861	H. Authorizing towns and townships to levy taxes for support of common schools. Failed in House. 195

ART. VIII, SEC. 2. The Common School fund shall consist of: the Congressional Township fund, and the lands belonging thereto;

The Surplus Revenue fund;

The Saline fund and the lands belonging thereto;

The Bank Tax fund, and the fund arising from the one hundred and fourteenth section of the charter of the State Bank of Indiana;

⁵ See also Article VIII, Proposed New Sections.

DATE

DOCUMENT

The fund to be derived from the sale of county seminaries, and the moneys and property heretofore held for such Seminaries; from the fines assessed for breaches of the penal laws of the State; and from all forfeitures which may accrue;

All lands and other estate which shall escheat to the State, for want of heirs or kindred entitled to the inheritance;

All lands that have been, or may hereafter be, granted to the State, where no special purpose is expressed in the grant, and the proceeds of the sales thereof; including the proceeds of the sales of the swamp lands, granted to the State of Indiana by the act of Congress of the twenty-eighth of September, eighteen hundred and fifty, after deducting the expense of selecting and draining the same;

Taxes on the property of corporations, that may be assessed by the General Assembly for common school purposes.

AMENDMENTS PROPOSED

1861

H. Providing that each county shall draw its quota of interest from common school fund in proportion to number of school children therein. All funds accruing from taxation, fines, and forfeitures to remain in county where raised. Failed in House.

204

ART. VIII, SEC. 8. The General Assembly shall provide for the election, by the voters of the State, of a State Superintendent of Public Instruction; who shall hold his office for two years, and whose duties and compensation shall be prescribed by law.

DATE	AMENDMENTS PROPOSED	DOCUMENT
1855	H. Repealing section. Failed in House.	157
1858	H. Repealing section. Failed in House.	176
1861	S. Fixing term at 4 years. Failed in Senate.	206
1889	S. Fixing term at 4 years; elective in presidential years; term to begin on first Monday in January after election; to be ineligible to succeed himself. Failed in Senate.	407
1889-91	S. Fixing term at 4 years; elective in presidential years; term to begin on first Monday in January after election; to be ineligible to succeed himself. Passed House: 83-0; passed Senate: 42-0.	407
(1891)	Defeated in House: 1-74.	417
1911	M. C. Fixing term at 4 years.	505
1913-15	S. Fixing term at 4 years. Passed Senate: 34-8; passed House: 73-2.	526
(1915)	Passed Senate: 25-18; failed in House.	533
1917	Message of Gov. Goodrich. Favoring appointment of state superintendent.	543
	S. Fixing term at 4 years. Passed Senate: 34-1; failed in House.	551
1918	Rep. Platform: Indorsing appointment of state superintendent.	570
1919	Message of Gov. Goodrich. Favoring appointment of state superintendent.	572
	S. Authorizing appointment of state superintendent. Failed in Senate.	577
1919-21	S. Authorizing appointment of state superintendent. Attempted Amendment: authorizing appointment by State Board of Education. Passed Senate: 30-15; passed House: 63-16.	590
(1921)	Passed Senate: 26-17; passed House: 58-11.	631
	Submitted to voters on Sept. 6, 1921: vote for, 46,023; vote against, 149,294; defeated.	

PROPOSED NEW SECTIONS⁶

1855	H. Changing method of supporting common schools. Failed in House.	160
1861-63	S. Authorizing cities, towns, and townships to levy taxes to support common schools. Passed Senate: 31-4; passed House: 77-13.	202
(1863)	Passed Senate: 36-7; failed in House.	212

⁶ See also amendments proposed to Article VIII, section 1.

DATE		DOCUMENT
1865	H. Authorizing cities, towns, townships, and school districts to levy taxes for support of common schools. Passed House: 56-31; failed in Senate.	225 and 243
1865-67	S. Authorizing cities and towns to levy taxes for support of common schools in addition to revenue derived from state. Passed Senate: 43-2; passed House.	224
(1867)	Failed in House.	250
1867	S. Authorizing cities, towns, and townships to levy taxes to support common schools in addition to revenue derived from state. Attempted Amendment: omitting townships from provision. Passed Senate: 26-15; failed in House.	248
	H. Authorizing townships to levy taxes for support of common schools. Failed in House.	249

ARTICLE X

FINANCE

ART. X, SEC. 1. The General Assembly shall provide, by law, for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious or charitable purposes, as may be specially exempted by law.

AMENDMENTS PROPOSED

1891-93	H. Providing that corporations may be taxed on net or gross earnings as may be provided by law. Passed House: 75-0; passed Senate: 41-1.	421
(1893)	Passed House: 87-1; defeated in Senate: 16-30.	430
1909	S. Exempting property of \$300 or less in value and property of Civil War veterans, their widows and orphans, in sum of \$1,000. Failed in Senate.	500
1913	S. Changing tax system. Failed in Senate.	527

DATE		DOCUMENT
1913-15	S. Permitting classification of property for purposes of taxation. Passed Senate: 34-8; passed House: 73-2.	526
(1915)	Message of Gov. Ralston. Disapproving pending tax amendment.	532
	Defeated in Senate: 20-25.	533
1916	Rep. Platform. Favoring limitation on tax rate.	537
	Soc. Platform. Favoring exemption from taxation of personal property not exceeding \$600.	541
1917	Message of Gov. Goodrich. Advocating classification of property for taxation and limitation on tax rate.	543
	H. Exempting property of soldiers and sailors, not exceeding \$1,000 in value, from taxation. Failed in House.	559
	H. Exempting property of indigent widows and orphans, not exceeding \$500 in value, from taxation. Failed in House.	560
	H. Exempting household goods, not exceeding \$200 in value, from taxation. Failed in House.	561
1918	Soc. Platform. Advocating tax exemption of personal property of not to exceed \$600.	569
	Rep. Platform. Favoring limitation of tax rate.	570
1919	Message of Gov. Goodrich. Favoring income tax and classification of property for taxation.	572
	S. Authorizing classification of property for taxation. Failed in Senate.	579
1919-21	S. Authorizing Assembly to enact laws for taxation. Passed Senate: 33-12; passed House: 73-0.	592
(1921)	Message of Gov. McCray. Indorsing pending amendment.	619
	Passed Senate: 34-8; passed House: 69-19.	632
	Submitted to voters on Sept. 6, 1921: vote for, 31,786; vote against, 166,186; defeated.	

ART. X, SEC. 5. No law shall authorize any debt to be contracted, on behalf of the State, except in the following cases: to meet casual deficits in the revenue; to pay the interest on the State debt; to repel in-

DATE	DOCUMENT
	vasion, suppress insurrection, or, if hostilities be threatened, provide for the public defense.

AMENDMENTS PROPOSED

1877	S. Authorizing issuance of \$3,000,000 worth of bonds to build a state house. Failed in Senate.	302
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ART. X, SEC. 6. No county shall subscribe for stock in any incorporated company, unless the same be paid for at the time of such subscription; nor shall any county loan its credit to any incorporated company, nor borrow money for the purpose of taking stock in any such company; nor shall the General Assembly ever, on behalf of the State, assume the debts of any county, city, town or township, nor of any corporation whatever.

AMENDMENTS PROPOSED

1877-79	S. Prohibiting cities, towns, counties, and townships from subscribing to stock of, or giving money or credit to, corporations. Passed Senate: 38-5; passed House: 57-19.	295
(1879)	No action.	

(ART. X, SEC. 7) PRELIMINARY PROPOSALS

1858	Anti-Admin. Dem. Platform. Opposing transfer of Wabash and Erie Canal to state.	172
	Rep. Platform. Opposing transfer of Wabash and Erie Canal to state.	173
	H. Opposing purchase of, or assuming debt of Wabash and Erie Canal.	174
1860	Dem. Con. Opposing transfer of Wabash and Erie Canal to state.	192
	Rep. Con. Opposing transfer of Wabash and Erie Canal to state or assumption of its debts.	193
1867	S. Prohibiting state from assuming debts or liabilities of Wabash and Erie Canal. Passed Senate: 26-15; failed in House.	248

DATE	DOCUMENT	
1869	Message of Gov. Baker. Favoring prohibiting state from assuming debts of Wabash and Erie Canal.	Vol. 2, p. 86
	S. Prohibiting state from assuming debts of Wabash and Erie Canal. Failed in Senate.	253
	S. Opposing purchase of Wabash and Erie Canal or assumption of debts. Failed in Senate.	254
1870	Rep. Platform. Opposing assumption of debts of Wabash and Erie Canal.	256
1871	Message of Gov. Baker. Opposing assumption of debts or liabilities of Wabash and Erie Canal.	257
	H. Prohibiting state from assuming debts or liabilities of Wabash and Erie Canal. Failed in House.	260
	S. Prohibiting state from assuming debts or liabilities of Wabash and Erie Canal. Failed in Senate.	261
1871-73	S. Prohibiting state from assuming debts or liabilities of Wabash and Erie Canal. Passed Senate: 45-1; passed House: 93-0.	258
(1872)	Rep. Platform. Indorsing pending Wabash and Erie Canal amendment.	267
	Message of Gov. Baker. Recommending adoption of pending Wabash and Erie Canal amendment.	269
	Passed House: 97-0; passed Senate: 34-0.	270
	Message of Gov. Baker. Favoring readoption of pending Wabash and Erie Canal amendment.	279
(1873)	Submitted to voters on Feb. 18, 1873: vote for, 158,400; vote against, 1,030; declared in force by proclamation of governor on Mar. 7, 1873.	
1872	H. Readopting pending Wabash and Erie Canal amendment. Failed in House.	273

(1873) ART. X, SEC. 7. No law or resolution shall ever be passed by the General Assembly of the State of Indiana, that shall recognize any liability of this State to pay or redeem any certificate of stock issued in pursuance of an act entitled "An act to provide for the funded debt of the State of Indiana, and for the completion

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of the Wabash and Erie Canal to Evansville," passed January 19th, 1846, and an act supplemental to said act, passed January 29th, 1847, which, by the provisions of the said acts, or either of them, shall be payable exclusively from the proceeds of the canal lands, and the tolls and revenues of the canal in said acts mentioned, and no such certificate or stocks shall ever be paid by this State.

PROPOSED NEW SECTIONS

1919-21	S. Sec. 8. Authorizing income tax. Passed Senate: 30-1; passed House: 74-1.	600
(1921)	Passed Senate: 33-10; passed House: 76-6. Submitted to voters on Sept. 6, 1921: vote for, 39,005; vote against, 157,827; defeated.	633
1923-26	S. Sec. 8. Authorizing income tax. Passed Senate: 27-22; passed House: 59-15.	646
(1925)	Message of Gov. Branch. Urging readoption of pending amendment.	659
	Passed Senate: 40-5; passed House: 62-18.	662
(1926)	Submitted to voters on Nov. 2, 1926: vote for, 239,734; vote against, 212,224; total vote cast at election, 1,052,994; majority of vote cast, 526,498; defeated.	
1927-29	S. Sec. 8. Authorizing income tax. Passed Senate: 37-6; passed House: 51-35.	669
(1929)	Passed Senate: 34-4; passed House: 64-23. Pending action of Assembly of 1931.	675

ARTICLE XI

CORPORATIONS

ART. XI, SEC. 10. Every bank or banking company, shall be required to cease all banking operations, within twenty years from the time of its organization, and promptly thereafter to close its business.

AMENDMENTS PROPOSED

1911	M. C. Limiting existence of banks to 50 years.	505
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DATE		DOCUMENT
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ART. XI, SEC. 13. Corporations, other than banking, shall not be created by special act, but may be formed under general laws.

AMENDMENTS PROPOSED

1913-15	S. Authorizing Assembly to amend charters of corporations and associations. Passed Senate: 34-8; passed House: 73-2.	526
(1915)	Defeated in Senate: 4-38.	533

ARTICLE XII

MILITIA

ART. XII, SEC. 1. The militia shall consist of all able bodied white male persons, between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States, or of this State; and shall be organized, officered, armed, equipped, and trained, in such manner as may be provided by law.

AMENDMENTS PROPOSED

1885	H. Admitting negroes. Failed in House.	376
	S. Admitting negroes. Failed in Senate.	376
1885-87	H. Admitting negroes. Passed House: 77-2; passed Senate: 44-0.	375
(1886)	Rep. Platform. Approving pending amendment.	392
(1887)	Passed Senate: 29-13; not received by House.	394
1888	Rep. Platform. Indorsing amendment admitting negroes.	399
1889	H. Admitting negroes. Failed in House.	401
	S. Admitting negroes. Failed in Senate.	401
1889-91	H. Admitting negroes. Passed House: 79-3; passed Senate: 41-0.	401
(1891)	Defeated in House: 1-74.	417
1913-15	S. Admitting negroes. Passed Senate: 34-8; passed House: 73-2.	526
(1915)	Passed Senate: 36-6; failed in House.	533

DATE	DOCUMENT
1917	S. Admitting negroes. Passed Senate: 34-1; failed in House. 552
1919	Message of Gov. Goodrich. Favoring admitting negroes. 572
	S. Admitting negroes. Failed in Senate. 574
1919-21	S. Admitting negroes. Passed Senate: 35-0; passed House: 81-0. 587
(1921)	Passed Senate: 39-4; passed House: 80-1. 634
	Submitted to voters on Sept. 6, 1921: vote for, 55,027; vote against, 142,909; defeated.

ARTICLE XIII

NEGROES AND MULATTOES

ART. XIII, SEC. 1. No negro or mulatto shall come into or settle in the State, after the adoption of this Constitution.

SEC. 2. All contracts made with any Negro or Mulatto coming into the State, contrary to the provisions of the foregoing section, shall be void; and any person who shall employ such Negro or Mulatto, or otherwise encourage him to remain in the State, shall be fined in any sum not less than ten dollars, nor more than five hundred dollars.

SEC. 3. All fines which may be collected for a violation of the provisions of this article, or of any law which may hereafter be passed for the purpose of carrying the same into execution, shall be set apart and appropriated for the colonization of such Negroes and Mulattoes, and their descendants, as may be in the State at the adoption of this Constitution, and may be willing to emigrate.

SEC. 4. The General Assembly shall pass laws to carry out the provisions of this article.

DATE	AMENDMENTS PROPOSED	DOCUMENT
1855	H. Repealing Article. Defeated in House: 19-61.	156
	H. Repealing Article. Failed in House.	161
1865	H. Repealing Article. Passed House: 51-41; failed in Senate.	226 240
	H. Memorial. Favoring repeal of Article. Failed in House.	228
1866	Dem. Platform. Opposing repeal of Article.	247
1867	Message of Gov. Morton. Favoring repeal of Article.	Vol. 2, p. 79
1872	Message of Gov. Baker. Favoring repeal of Article.	279
1873-75	H. Repealing Article: substituting Article limiting municipal debt to five per cent. Passed House: 60-13; passed Senate: 34-4.	284
(1875)	Defeated in House: 41-50.	293
1877	S. Repealing Article. Failed in Senate.	295
	H. Repealing Article. Passed House: 72-3; failed in Senate.	300
	H. Repealing Article. Failed in House.	301
1877-81	S. Repealing Article and incorporating municipal debt limit of two per cent. Attempted Amendment: fixing debt limit at three per cent. Passed Senate: 38-6; passed House.	295
(1879)	Passed Senate: 48-0; passed House: 81-11.	315
(1880)	Submitted to voters on Apr. 5, 1880: vote for, 176,981; vote against, 126,999; total vote cast at election, 380,771; majority of votes cast, 190,386; held neither adopted nor rejected in State v. Swift, 69 <i>Indiana</i> , 505.	and 318
(1881)	Resubmitted at special election on Mar. 14, 1881: vote for, 126,221; vote against, 36,435; total vote cast at election, 172,900; majority of votes cast, 86,451; declared in force by proclamation of governor on Mar. 24, 1881.	

(1881) ART. XIII, SEC. 1. No political or municipal corporation in this State shall ever become indebted in any manner or for any purpose to an amount in the aggregate exceeding two per centum on the value of

DATE

DOCUMENT

the taxable property within such corporation, to be ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by such corporations shall be void: *Provided*, That in time of war, foreign invasion, or other great public calamity, on petition of a majority of the property owners, in number and value, within the limits of such corporation, the public authorities, in their discretion, may incur obligations necessary for the public protection and defense to such amount as may be requested in such petition.

AMENDMENTS PROPOSED

1899	S. Fixing debt limit at one-half of one per cent and authorizing municipalities to issue bonds for construction of public utilities. Failed in Senate.	460
	H. Fixing debt limit at one-half of one per cent and authorizing municipalities to issue bonds for construction of public utilities. Failed in House.	460
1913-15	H. Authorizing municipalities, on vote of majority of electors, to incur indebtedness in excess of two per cent to construct or acquire public utilities. Passed House: 73-2; agreed to by Senate.	526
(1915)	Not considered.	

PROPOSED NEW SECTIONS

1901	H. Authorizing cities to frame and adopt charters by popular vote; to amend such charters by referendum; to enable cities to own and operate public utilities. Failed in House.	472
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ARTICLE XV

MISCELLANEOUS

DATE		DOCUMENT
<p>ART. XV, SEC. 1. All officers, whose appointment is not otherwise provided for in this Constitution, shall be chosen in such manner as now is, or hereafter may be, prescribed by law.</p>		
AMENDMENTS PROPOSED		
1911	M. C. Providing that municipal and local officers may be elected or appointed as provided by law; prohibiting Assembly from electing or appointing any officers except its own and United States senators; prohibiting increase of compensation of any elective officer during term of office.	505
1913-15	S. Providing for election or appointment of municipal or local officers; prohibiting increase in salary of officer during term. Passed Senate: 34-8. House Amendment: prohibiting extension of term during tenure of office. Agreed to by Senate. Passed House: 73-2.	526
(1915)	Passed Senate: 40-2; failed in House.	533
<p>ART. XV, SEC. 2. When the duration of any office is not provided for by this Constitution, it may be declared by law; and, if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the General Assembly shall not create any office, the tenure of which shall be longer than four years.</p>		
AMENDMENTS PROPOSED		
1905	H. Prohibiting increase or decrease in term of officer or of fees or salary during tenure of office. Failed in House.	483
1908	Rep. Platform. Favoring amendment prohibiting increase of salary during term of office.	495
1916	Rep. Platform. Favoring prohibiting increase of salary of officer during term of office.	537

DATE	DOCUMENT	
1917	Message of Gov. Goodrich. Favoring prohibiting increase of salary of officer during term of office.	543
	S. Prohibiting increase of salary of officer during term of office. Failed in Senate.	545
1917-19	S. Prohibiting increase of salary of and extension of term of officer during term of office. Passed Senate: 34-0; passed House: 57-29.	544
(1919)	Rejected by Senate: 45-0; rejected by House: 78-10.	573
1918	Rep. Platform. Prohibiting increase of salary of public officer during term of office.	570
1919	Message of Gov. Goodrich. Favoring prohibiting increase of salary of officer during term of office.	572
1919-21	S. Prohibiting increase of salary of and extension of term of officer during term. Passed Senate: 36-1; passed House: 90-1.	602
(1921)	Passed Senate: 30-16; passed House: 77-0.	635
	Submitted to voters on Sept. 6, 1921: vote for, 80,191; vote against, 117,140; defeated.	
1923-26	S. Prohibiting increase of salary of and extensions of term of public officer during term of office. Passed Senate: 41-0; passed House: 72-3.	644
(1925)	Message of Gov. Branch. Urging readoption of pending amendment.	659
	Passed Senate: 44-0; passed House: 79-1.	661
(1926)	Submitted to voters on Nov. 2, 1926: vote for, 182,456; vote against, 177,748; total vote cast at election, 1,052,994; majority of vote cast, 526,498; defeated.	

PROPOSED NEW SECTIONS

1871	H. Sec. 2. Authorizing Assembly to establish maximum freight and passenger rates for railroads and to prohibit discrimination against railroad companies. Failed in House.	262
1873	H. Secs. 4 and 5. Authorizing women to vote on question of woman suffrage. Failed in House. ⁷	288
1915	H. Sec. 11. Authorizing Assembly to establish minimum wage. Failed in House.	534
1917	S. Sec. 11. Prohibiting manufacture and sale of intoxicating liquor. Passed Senate: 33-3; failed in House. ⁸	556

⁷ See also amendments proposed to Article II, section 2.⁸ See also Proposed New Articles.

ARTICLE XVI

AMENDMENTS

DATE		DOCUMENT
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ART. XVI, SEC. 1. Any amendment or amendments to this Constitution, may be proposed in either branch of the General Assembly; and, if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals, and referred to the General Assembly to be chosen at the next general election; and if, in the General Assembly so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the General Assembly to submit such amendment or amendments to the electors of the State; and if a majority of said electors shall ratify the same, such amendment or amendments shall become a part of this Constitution.

AMENDMENTS PROPOSED

1883	S. Requiring two-thirds vote in each house for adoption. Withdrawn by author.	370
1895	S. Requiring constitutional amendment to pass only one General Assembly before submission to people. Failed in Senate.	439
1911	M. C. Providing that amendment to Constitution may be proposed by one Assembly and submitted to voters at next general election; if majority of electors voting on amendment vote in favor, it is adopted; if not, it is rejected; any political party may approve any amendment and have its declaration printed on ballot; no new constitution shall be submitted to people until	505

DATE	DOCUMENT	
	majority of legal voters have declared in favor of convention, and any constitution proposed by convention must be submitted to voters.	
1911	S. Permitting ratification of proposed amendment by majority of vote on amendment. Failed in Senate.	509
1913-15	S. Providing that amendment to Constitution may be proposed by one Assembly and submitted to voters at next general election; if majority of electors voting on amendment vote in favor, it is adopted; if not, it is rejected; any political party may approve any amendment and have its declaration printed on ballot; no new constitution shall be submitted to people until majority of legal voters have declared in favor of convention, and any constitution proposed by convention must be submitted to voters. Passed Senate: 34-8; passed House: 73-2.	526
(1915)	Defeated in Senate: 22-25.	533
1916	Prog. Platform. Favoring liberalizing amending process of Constitution.	539
1917	S. Authorizing adoption of amendment by one Assembly by a two-thirds vote; submission to people at general election; ratification by majority voting on amendment. Passed Senate: 34-1; failed in House.	553
1919	Message of Gov. Goodrich. Favoring submission of amendment to voters after passing one Assembly.	572
	S. Authorizing adoption of amendment by two-thirds vote of each house of one Assembly; ratification of amendment by majority of vote on amendment. Failed in Senate.	575
1919-21	S. Authorizing ratification of amendment by majority of vote cast thereon. Passed Senate: 34-6; passed House: 70-6.	588
(1921)	Defeated in Senate: 13-33.	636
1923	S. Providing that majority of electors voting on amendment be sufficient to ratify. Defeated in Senate: 16-28.	643
	Message of Gov. McCray. Advocating provision that majority of vote cast on amendment be sufficient to ratify.	642

DATE	DOCUMENT
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ART. XVI, SEC. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner, that the electors shall vote for or against each of such amendments separately; and while an amendment or amendments, which shall have been agreed upon by one General Assembly, shall be awaiting the action of a succeeding General Assembly, or of the electors, no additional amendment or amendments shall be proposed.

AMENDMENTS PROPOSED

1913-15	S. Repealing provision prohibiting adoption of amendment while other amendments are pending. Passed Senate: 34-8; passed House: 73-2.	526
(1915)	Passed Senate: 33-10; failed in House.	533
1917	S. Eliminating references to pending amendments and succeeding assemblies. Passed Senate: 34-1; failed in House.	553
1919	S. Eliminating references to pending amendments and succeeding assemblies. Failed in Senate.	575
1919-21	S. Eliminating references to pending amendments, and succeeding assemblies. Passed Senate: 34-6; passed House: 70-6.	588
(1921)	Defeated in Senate: 13-33.	636
1923	S. Eliminating references to pending amendments, and succeeding assemblies. Defeated in Senate: 16-28.	643

PROPOSED NEW ARTICLES

PROHIBITION⁹

1859	Temperance Con. Approving prohibition of sale of intoxicating liquor. Rejected by convention.	179
	Temperance Con. Favoring providing for local option in control of liquor traffic.	180
1879	S. H. Memorials. Favoring prohibition of sale of intoxicating liquor.	306

⁹ See also new sections proposed for Article XV.

APPENDIX

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DATE	DOCUMENT	
1881	S. Art. XVII. Prohibiting manufacture and sale of intoxicating liquor. Failed in Senate.	337
1881-83	H. Art. XVII. Prohibiting manufacture and sale of intoxicating liquor. Passed House: 56-36; passed Senate: 26-20.	336
(1882)	Dem. Platform. Opposing prohibition amendment.	354
	Rep. Platform. Favoring adoption and submission of pending amendment.	355
(1883)	S. Memorial. Favoring adoption of pending amendment.	356
	H. Memorial. Opposing pending amendment.	356
	Passed House: 57-37; failed in Senate.	362
1884	Dem. Platform. Opposing prohibition amendment.	373
1888	Dem. Platform. Opposing prohibition amendment.	398
1891	S. Approving prohibition of liquor traffic. Failed in Senate.	426
1907	H. Prohibiting liquor traffic. Failed in House.	492
1908	H. Art. XVII. Prohibiting liquor traffic. Passed House: 71-28; failed in Senate.	496
1909	H. Art. XVII, Secs. 1 and 2. Prohibiting liquor traffic. Failed in House.	502
1911	S. Prohibiting manufacture and sale of intoxicating liquors. Failed in Senate.	513
	H. Prohibiting manufacture and sale of intoxicating liquor. Failed in House.	514
1916	Prog. Platform. Favoring prohibition of liquor traffic.	539

RAILROAD RATES

1873	H. Authorizing Assembly to pass laws fixing maximum railroad rates for freight and passengers and preventing discrimination. Defeated in House: 9-41.	290
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CONVICT LABOR

1885	S. Art. XVII. Prohibiting hiring out of labor of convicts in penal institutions. Failed in Senate.	385
	H. Art. XVII. Prohibiting hiring out of labor of convicts in penal institutions. Failed in House.	385

DATE

DOCUMENT

HOME RULE FOR CITIES

1916	Prog. Platform. Favoring home rule for cities.	539
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INITIATIVE, REFERENDUM, AND RECALL¹⁰

1911	Message of Gov. Marshall. Favoring referendum on bills affecting special interests.	504
1916	Prog. Platform. Favoring initiative, referendum, and recall.	539
1918	Soc. Platform. Favoring initiative, referendum, and recall.	569

SUBJECT NOT DESIGNATED

1881	H. Proposing amendment to Constitution. Failed in House.	346
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SUMMARY: 400 amendments proposed.

227 defeated in 1st house	passed both houses 2d Assembly in separate resolutions; held illegal
1 passed 1st house; not reported to 2d house	1 adopted 1st Assembly; passed 1st house; not received by 2d house, 2d Assembly
49 passed 1st house; failed in 2d house	1 adopted 1st and 2d Assemblies; not submitted to voters
4 adopted 1st Assembly; not considered 2d Assembly	2 adopted 1st and 2d Assemblies; pending action of voters
35 adopted 1st Assembly; defeated 1st house, 2d Assembly	22 adopted 1st and 2d Assemblies; defeated by voters
24 adopted 1st Assembly; passed 1st house; defeated 2d house, 2d Assembly	9 adopted 1st and 2d Assemblies; ratified by voters.
24 adopted 1st Assembly; submitted to voters; held invalid before election	
1 adopted 1st Assembly;	

¹⁰ See also amendments proposed for Article IV, section 1.

V. ATTEMPTS TO CALL CONSTITUTIONAL CONVENTION

DATE	ACTION	DOCUMENT
1859	H. Passed House: 56-34; passed Senate: 30-17. Voted on Oct. 11, 1859; defeated	181
1865	H. Failed in House	229
	H. Failed in House	230
1871	H. Failed in House	266
1872	Gov. Baker's recommendation	279
	S. Failed in Senate	280
	S. Failed in Senate	280
	H. Failed in House	280
1873	Gov. Baker's recommendation	281
	H. Passed House: 52-29; failed in Senate	282
1877	H. Passed House: 51-26; failed in Senate	303
1879	H. Failed in House	323
1881	Gov. Gray's recommendation	347
	Gov. Porter's opposition	348
	S. Defeated in Senate: 21-28	349
	H. Failed in House	349
1883	S. Failed in Senate	371
1884	Republican State Convention's recommendation	372
	Democratic State Convention's opposition	373
1885	S. Failed in Senate	389
	H. Failed in House	389
1887	H. Failed in House	397
1889	Gov. Gray's opposition	400
1893	Gov. Matthew's opposition	427
1895	H. Failed in House	445
	H. Failed in House	445
1899	S. Defeated in Senate: 19-26	463
1901	S. Failed in Senate	473
1903	S. Failed in Senate	478
1907	S. Failed in Senate	493
	S. Passed Senate: 35-7; recalled from House; failed in Senate	493
1911	S. Failed in Senate	516
1913	Gov. Ralston's recommendation	524
	S. Failed in Senate	529
	H. Failed in House	529
	S. Failed in Senate	529
	H. Failed in House	529
	S. Failed in Senate	529
	S. Failed in Senate	529

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DATE	ACTION	DOCUMENT
	S. Passed Senate: 32-5; passed House: 66-8; submitted to voters at general election of Nov. 3, 1914; vote in favor, 235,140; vote against, 338,947	529
1915	H. Failed in House	536
	H. Defeated in House: 45-49	536
	S. Failed in Senate	536
1916	Prohibition State Convention's recommendation	540
	Socialist State Convention's recommendation	541
1917	Gov. Ralston's recommendation	542
	Gov. Goodrich's recommendation	543
	S. Failed in Senate	562
	H. Passed House: 87-10; passed Senate: 33-13; held invalid in <i>Bennett v. Jackson</i> , 186 <i>Indiana</i> , 533	563
1918	Socialist State Convention's recommendation	569
1919	H. Failed in House	614
	S. Failed in Senate	615
1920	Farmer-Labor State Convention's recommendation	617
1924	Socialist State Convention's recommendation	658
1927	S. Failed in Senate	671
1928	Socialist State Convention's recommendation	672
1929	S. Passed Senate: 37-4; passed House: 62-25; to be voted on Nov. 4, 1930	678

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2 state votes against convention	6 governors' messages recommending conventions
1 state vote pending	3 governors' messages opposing conventions
34 measures passed originating house	7 state party platforms for convention
2 passed 1st house; failed in 2d house	1 state party platform against convention
1 passed 1st and 2d houses; held invalid	

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